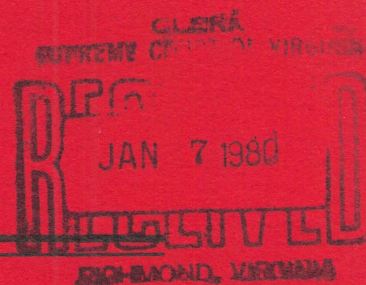


220VA1035



IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NO. 791367

RICHARD CARTER REESE

Appellant

v.

COMMONWEALTH OF VIRGINIA

Appellee

APPELLANT'S APPENDIX

Edwin A. Williams, Esquire
Kellogg, Williams & Lyons
246 Maple Avenue, East
Vienna, Virginia 22180
(703) 938-4875

Counsel for Appellant

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V I R G I N I A :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

January 16, 1979

COMMONWEALTH OF VIRGINIA)	INDICTMENT FOR ROBBERY, ABDUCTION
)	AND USING A FIREARM IN THE
vs.)	COMMISSION OF A FELONY
)	
RICHARD CARTER REESE)	

COUNT I

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the said Court at its January Term, 1979 charges that: On or about the 17th day of July, 1978 in the County of Fairfax, Richard Carter Reese did rob one Mary Coffey of assorted property.

Va. Code §18.2-58

COUNT II

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the said Court at its January Term, 1979 charges that: On or about the 17th day of July, 1978 in the County of Fairfax, Richard Carter Reese did feloniously abduct Mary Coffey with the intent to deprive her of her personal liberty.

Va. Code §18.2-47

COUNT III

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the

said Court at its January Term, 1979 charges that: On or about the 17th day of July, 1978 in the County of Fairfax, Richard Carter Reese did display a firearm in a threatening manner while committing the robbery of Mary Coffey.

Va. Code §18.2-53.1

COUNT IV

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the said Court at its January Term, 1979 charges that: On or about the 17th day of July, 1978 in the County of Fairfax, Richard Carter Reese did rob one Wanda Coffey of assorted property.

Va. Code §18.2-58

COUNT V

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the said Court at its January Term, 1979 charges that: On or about the 17th day of July, 1978 in the County of Fairfax, Richard Carter Reese did feloniously abduct Wanda Coffey with the intent to deprive her of her personal liberty.

Va. Code §18.2-47

COUNT VI

The Grand Jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the

said Court at its January Term, 1979 charges that: On or about the 17th day of July, 1978 in the County of Fairfax, Richard Carter Reese did display a firearm in a threatening manner while committing the robbery of Wanda Coffey.

Va. Code §18.2-53.1

A True Bill X

No True Bill _____

Der Schmitt
F O R E M A N

Witnesses subpoenaed, sworn and available to testify before the Grand Jury:

Inv. J. Riddel, Fairfax County Police Dept.

COMMONWEALTH OF VIRGINIA

:

v.

: At Law No. 28567

RICHARD CARTER REESE

:

MOTION TO SUPPRESS PHYSICAL EVIDENCE

TO THE HONORABLE JUDGES OF THE AFORESAID COURT:

COMES NOW the defendant, through court-appointed counsel, and hereby moves this Court, pursuant to Rule 3A:12 of the Supreme Court Rules, to suppress any and all evidence seized from the automobile the defendant was driving at the time of his arrest on July 22, 1978.

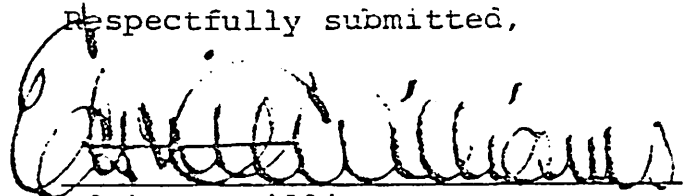
As grounds for this motion the defendant, through counsel, states:

1. During the early morning hours of July 22, 1978, the defendant along with several other persons was arrested while driving his mother's automobile at an excessive rate of speed in the vicinity of Culpepper, Virginia. The automobile was impounded and taken to a junk yard on Route 522 near Culpepper. Thereafter, the car was eventually searched by the police and various items of physical evidence were seized.

2. The search of the automobile was done without a warrant, without there being any exigent circumstances necessitating a warrantless search, and without probable cause or any other reasons making the search and seizure of various items of physical evidence legal.

WHEREFORE, the defendant moves to suppress any and all physical evidence seized from the automobile he was driving at his arrest on July 22, 1978, in Culpepper, Virginia.

Respectfully submitted,



Edwin A. Williams
KELLOGG, WILLIAMS & LYONS
246 Maple Avenue, East
Vienna, Virginia 22180
Telephone: 938-4875

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion has been served upon the Office of the Commonwealth Attorney for Fairfax County, 4000 Chain Bridge Road, Fairfax, Virginia 22030, this 6th day of March, 1979.

COMMONWEALTH OF VIRGINIA

:

v.

: At Law No.

28567

RICHARD CARTER REESE

:

POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S
MOTION TO SUPPRESS PHYSICAL EVIDENCE

~~United States v. Prescimone, 536 F.2d 971 (4th Cir. 1975).~~ WS

United States v. Sifuentes, 504 F.2d 845 (4th Cir. 1974).

Coolidge v. New Hampshire, 403 U.S. 443 (1970)

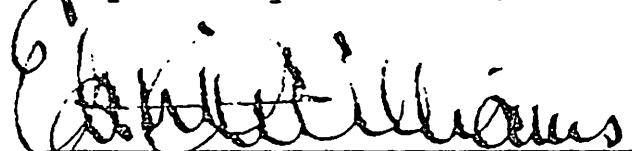
Dyke v. Taylor Implement Mfg. Co., 391 U.S. 216 (1968)

Schaum v. Commonwealth, 215 Va. 498

Cabbler v. Commonwealth, 212 Va. 520 (1971).

South Dakota v. Opperman, 428 U.S. 364 (1976).

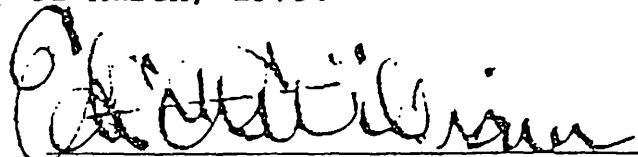
Respectfully submitted,



Edwin A. Williams
KELLOGG, WILLIAMS & LYONS
246 Maple Avenue, East
Vienna, Virginia 22180
Telephone: 938-4875

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Points and Authorities has been served upon the Office of the Commonwealth Attorney for Fairfax County, 4000 Chain Bridge Road, Fairfax, Virginia 22030, this 6th day of March, 1979.



Edwin A. Williams

IN CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA

:

v.

: At Law No.

28567

RICHARD CARTER REESE

:

MOTION TO SUPPRESS STATEMENTS

TO THE HONORABLE JUDGES OF THE AFORESAID COURT:

COMES NOW the defendant Richard Carter Reese, by court-appointed counsel, and hereby moves this Court, pursuant to Rule 3A:12 and the Fifth Amendment of the United States Constitution, to suppress any and all statements made by him after his arrest on or about July 22, 1978.

As grounds for this motion defendant, through counsel, states:

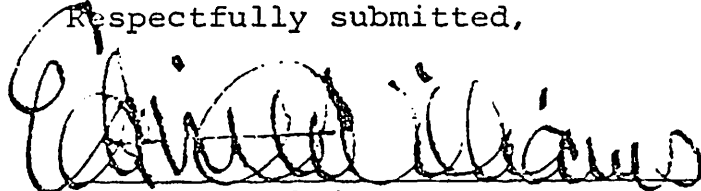
1. Defendant was arrested for speeding during the early morning hours of July 22, 1978, in the vicinity of Culpepper, Virginia. Defendant's car was impounded and he was taken to the Culpepper Jail where he was brought before a magistrate and his bond for the speeding charge was set in the amount of \$500.

2. Some time during the afternoon of July 22, defendant was interrogated at length by Fauquier County police officers with regard to a robbery in Warrenton, Virginia. As a result of this lengthy interrogation on the afternoon of July 22 by a number of Fauquier County police officers, defendant made various statements to the police implicating himself in the robbery of a motel in Warrenton. Thereafter, defendant was transported to the Fauquier County Jail in Warrenton, Virginia, where, on the morning of July 23, he again was interrogated by a number of Fauquier County police officers and signed a number of statements with regard to his alleged participation in the Warrenton robbery.

3. Late in the afternoon of July 23, before defendant had had an opportunity to talk to an attorney or see his relatives, he was placed in a small windowless room in the Fauquier County Jail where he was again interrogated at length by two Fairfax County investigators about the offenses charged in the indictment filed herein. Initially, defendant denied any involvement in or knowledge of the offenses charged herein; however, after persistent interrogation by the investigators and promises by them that if the defendant cooperated they would bring his cooperation to the attention of the judge and also the Commonwealth Attorney, the defendant made various statements implicating him in these offenses.

WHEREFORE, defendant moves this Court to suppress any and all statements made by him after his arrest on July 22, 1978, and which might be construed to implicate him in the offenses charged in this indictment.

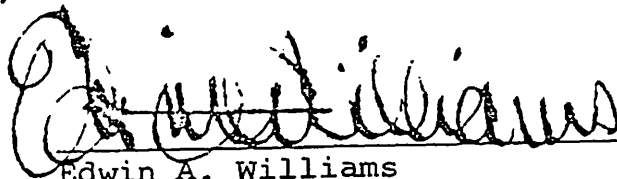
Respectfully submitted,



Edwin A. Williams
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Vienna, Virginia 22180
Telephone: 938-4875

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion has been served upon the Office of the Commonwealth Attorney for Fairfax County, 4800 Chain Bridge Road, Fairfax, Virginia 22030, this 6th day of March, 1979.



Edwin A. Williams

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA

:

v.

:

At Law No.

28567

RICHARD CARTER REESE

:

POINTS AND AUTHORITIES IN SUPPORT
OF DEFENDANT'S MOTION TO SUPPRESS STATEMENTS

As a general rule an extra-judicial statement is not admissible against the defendant unless it is voluntary. Akers v. Commonwealth, 216 Va. 40, 216 S.E. 2d 28 (1975). Statements have been held involuntary where the police have threatened the defendant, Rogers v. Richmond, 365 U.S. 534 (1961); Lynumn v. Illinois, 372 U.S. 528 (1963), or obtained the statement by engendering in the defendant a belief that he would be jailed or prosecuted unless he incriminated himself. Bram v. United States, 168 U.S. 532 (1897); cf. Hammer v. Commonwealth, 207 Va. 135, 148 S.E.2d 878 (1966). It should be remembered that in Rogers v. Richmond, supra at 540-41, the Supreme Court held per Mr. Justice Frankfurter's opinion for the majority that no one should be convicted on evidence obtained by "undesirable conduct" on the part of law enforcement officers:

Our decisions under the [Fourteenth] Amendment have made clear that convictions following the admission into evidence of confessions which are in-

voluntary, i.e., the product of coercion, either physical or psychological, cannot stand. This is so not because such confessions are unlikely to be true, but because the methods used to extract them offend an underlying principle in the enforcement of our criminal law: that ours is an accusatorial and not an inquisitorial system . . . a system in which the State must establish guilt by evidence independently and freely secured and may not by coercion prove its charge against an accused out of his own mouth. [Emphasis added.]

Without a doubt the conduct of the Fauquier County police officers and the Fairfax County investigators in this case was undesirable as well as coercive in that various threats and promises were made to the defendant in order to induce him to implicate himself and others in the offenses charged herein.

Wherefore, the defendant requests that this Court determine the voluntariness of his incriminating statements to the Fairfax County investigators.

In determining the voluntariness of an incriminating statement, the Supreme Court has held that the prosecutor must establish voluntariness by a preponderance of the evidence, Lego v. Twomey, 404 U.S. 477 (1972); and, this standard was ratified by the Supreme Court of Virginia in Witt v. Commonwealth, 215 Va. 671, 212 S.E.2d 293 (1975).

Defendant also contends that the Fairfax County investigators failed to warn him of his constitutional right not to incriminate himself in that they failed to adequately apprise the defendant according to Miranda v. Arizona, 384 U.S. 436 (1966).

In Miranda, supra, the Supreme Court held that custodial interrogation must be preceded by a four-part warning ^{1/} and that, in absence of the warning, a statement elicited during custodial interrogation is not admissible at trial. The Court defined "custodial interrogation" as questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. Miranda requires exclusion of any statements stemming from custodial interrogation unless the prosecution demonstrates compliance with its specific, prophylactic safeguards. Thus, if law enforcement officers fail to give the specified warnings before interrogation or fail to follow Miranda's guidelines during interrogation, the statement obtained may be suppressed, even though it is otherwise "wholly voluntary." Michigan v. Tucker, 417 U.S. 433, 443 (1974).

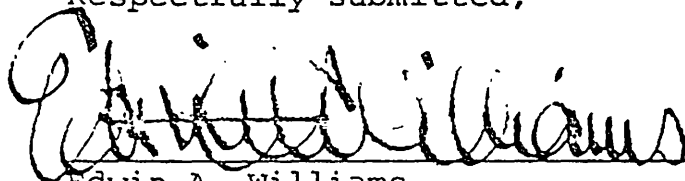
^{1/}
Preliminary to a custodial interrogation the accused must be advised: (1) that he has the right to remain silent: (2) that anything he says may be used against him in a court of law; (3) that he has the right to the [Footnote continued on next page] [Footnote continued] advice and presence of an attorney; and, (4) that if he cannot afford an attorney, one will be provided for him prior to any questioning if he so desires.

There is no doubt that by isolating the defendant in the small windowless room of the Fauquier County Jail on the afternoon of July 23, 1978, and questioning him about various offenses in Fairfax County, the investigators began a "custodial interrogation". Consequently, when the investigators failed to adequately warn the defendant of his constitutional rights prior to their questioning, the statements obtained were inadmissible. The law is clear that once an incriminating statement is obtained under improper influences, a rebuttable presumption arises that a subsequent incriminating statement regarding the same offense flows from the same improper influences. To overcome this heavy burden the Commonwealth must show by clear and convincing proof that any subsequent incriminating statement was made when the defendant's mind was free from the influences which induced the initial statement.

Bunting v. Commonwealth, 208 Va. 309, 1957 S.E.2d 204 (1967).

WHEREFORE, the defendant submits that any and all statements obtained from him by the Fairfax County investigators on the afternoon of July 23, 1978, were illegally obtained and should thus be suppressed.

Respectfully submitted,

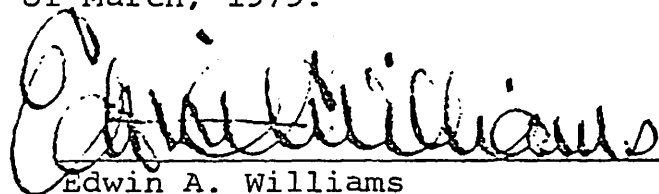


Edwin A. Williams

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Telephone: 938-4875

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Points and Authorities has been served upon the Office of the Commonwealth Attorney for Fairfax County, 4000 Chain Bridge Road, Fairfax, Virginia 22030, this 6th day of March, 1979.



Edwin A. Williams

1 Trooper.

2 Q How long have you been a Virginia State Police
3 Trooper?

4 A Since May of '76.

5 Q And how long have you been a law enforcement
6 officer?

7 A Since that time.

8 Q Have you been assigned down around Culpeper,
9 Virginia?

10 A Yes, sir.

11 Q How long have you been assigned down there?

12 A Approximately 2-1/2 years.

13 Q And directing your attention to July the 22nd,
14 the early morning hours of July the 22nd, 1978, did there
15 come a time when you stopped the Defendant, Mr. Reese, in
16 the vicinity of Culpeper, Virginia?

17 A Yes, there was.

18 Q Tell the Court what time was it that you stopped him?

19 A It was approximately 5:45 in the morning.

20 Q And what was he doing at the time?

21 A The original stop was for the charge of speeding.
22 according to the radar.

23 Q You caught him in a radar trap, is that right?

1 A No, sir. I caught him on radar.

2 Q Pardon?

3 A The speed was checked by radar.

4 Q And you stopped him?

5 A Yes, sir.

6 Q Was he driving this automobile?

7 A Yes, he was.

8 Q What kind of automobile was it that he was driving?

9 A A '72 Ford Thunderbird two-door, black-over-blue.

10 Q Are you referring to the ticket that you gave
11 him, is that right?

12 A Yes, sir, one of many.

13 Q Was anybody in the automobile with him at the time
14 you stopped him?

15 A Yes, sir, there was two other subjects.

16 Q What time was it that you stopped him?

17 A Approximately 5:45 in the morning.

18 Q What were the two other subjects doing?

19 A They appeared to be asleep.

20 Q What did you do then after you stopped him?

21 A I approached him. I asked for his operator's
22 license and his registration, which he failed to produce,
23 either, stating that he had lost them in Georgia in a robbery

1 down there.

2 Q Pardon me?

3 A He stated that he had lost them in Georgia in a
4 robbery down there, at which time I asked him, step out of
5 the vehicle, at which time he did. Two wads of money fell
6 out of his -- from his person whenever he stepped out of
7 the vehicle, and I asked him as far as name, et. cetera. He
8 did not know exactly what his address was in Newport News,
9 was the address he was giving me, but he could not recall
10 what the street address was; at which time I asked him to
11 come back to the police car so I could get some additional
12 information from him for the charge at the time of no
13 operator's license, no registration card, speeding, and
14 expired inspection; at which time he came on back to the
15 vehicl;, sat down, and I ran a check with the Division of
16 Motor Vehicles, which indicated he was suspended; at which
17 time I advised him that I was going to charge him with
18 driving on a suspended and that I was required by law to
19 seize the vehicle, the person who was charged with driving
20 on a suspended

21 Q And so you charged him with driving on a
22 suspended. Did you charge him with anything else?

23 A He was charged with the other charges I have

1 previously stated, and he was also charged with no
2 liability insurance.

3 THE COURT: Speeding, no driver's license, no
4 registration, and one other charge, the suspension?

5 THE WITNESS: Right. The charges were no regis-
6 tration card, failure to notify DMV of change of address,
7 expired Virginia inspection, reckless driving or the
8 speed, and then no operator's license. When it came back
9 suspended, it was changed, driving on suspended. When I was
10 transporting to the sheriff's office, it was found that he
11 did not have any liability insurance.

12 BY MR. WILLIAMS:

13 Q So you charged him with that too?

14 A Yes, sir.

15 Q After you transported, or at the same time you
16 transported him to the sheriff's office, did you also take
17 his car somewhere?

18 A I called for the wrecker, that is normally used
19 by the sheriff's office at Culpeper for all their seized
20 vehicles, which is Jenkins Wrecking Auto, at 5:22. I waited
21 at the vehicle until the wrecker arrived and I advised them
22 what the situation was; that I was seizing it for driving on
23 a suspended; at which time he proceeded to hook onto it.

MOTION
WILLIAMS_DIRECT

1 Q And did the magistrate put a bond on him?

2 A Yes, sir, she did.

3 Q Did he make the bond?

4 A No, sir.

5 Q And he was locked up, is that right?

6 A Yes, sir.

7 Q Were you there in the sheriff's office when he was
8 locked up?

9 A As far as being put behind the door which contains
10 the jail, I don't believe I was.

11 Q And then after you did all this, did you eventually
12 leave there and go on about your business?

13 A Yes, sir, I left. I had other calls waiting on
14 me.

15 Q Up until the time you left that morning, you had
✓ 16 no knowledge, did you, of any robbery occurring that this
17 man might have been involved in, did you?

18 A No, sir.

19 Q What time did you leave and go about the rest of
20 your business?

21 A Probably in the neighborhood of 7:30, approxi-
22 mately 7:00, 7:30.

23 Q Did there come a time later on that day on the

1 22nd of July, that you again were involved in some circum-
2 stances involving the Defendant, Mr. Reese?

3 A Yes, sir.

4 Q How did that come about?

5 A I was contacted by my dispatcher requesting a
6 return to the sheriff's office at Culpeper with reference
7 to the subject I had incarcerated earlier that morning.

8 Q What time was this that you got that call from
9 the dispatcher?

10 A Approximately noon, 11:55.

11 Q And where were you at the time?

12 A I was down in Massey County approximately three
13 miles south or three miles north of Madison, the town of
14 Madison.

15 Q And did the dispatcher tell you why he wanted
16 you to come on in, in regard to this man that you had
17 arrested that morning?

18 A After further inquiry, yes, sir.

19 Q What did he say at that time?

20 A He stated that he believed the possible subject
21 was the same that was involved in robbery that occurred in
22 Fauquier County.

23 Q And when was that robbery; when did that robbery

1 allegedly occur in Fauquier County?

2 A That morning, same morning, the 22nd.

3 Q As a result of this conversation with the dis-
4 patcher, what did you do?

5 A Returned to the sheriff's office in Culpeper.

6 Q You went to the sheriff's office in Culpeper?

7 A Yes, sir.

8 Q Tell the Court exactly what you did when you
9 arrived at the sheriffs's office in Culpeper.

10 A When I arrived, I was met by Investigator Wayland
11 which showed me the teletype message that had come in from
12 the Fauquier Sheriff's office, stating as to the robbery
13 and description of the subjects, description of the vehicle
14 involved. He inquired with the descriptions and vehicle
15 would have been the same as the description of the subject
16 and the vehicle which I had stopped earlier that morning.

17 Q Do you have a copy of that teletype with you?

18 A No, sir, I do not.

19 Q Is it to your recollection that the description
20 of the individuals and the car on that teletype were very
21 much similar to the Defendant's car and the people that
22 were with him; is that your testimony?

23 A That's correct, sir.

1 Q Did you discuss the teletype at all with
2 Investigator Wayland?

3 A Only the standard discussion that you would have.

4 Q That you thought this guy might be involved, and
5 that was your discussion?

6 A I said the Defendant did match the description,
7 at least the three subjects did match the description they
8 had on teletype.

9 THE COURT: You said that, or Investigator Wayland
10 said that?

11 THE WITNESS: I can't say either one of us stated,
12 but it was implied.

13 BY MR. WILLIAMS:

14 Q After you discussed this teletype with
15 Investigator Wayland, then what was the next thing you did?

16 A The sheriff's office in Fauquier was supposed to
17 be sending down two deputies that had knowledge of the
18 robbery, at which time we were waiting for them.

19 Investigator Wayland inquired if I had yet
20 inventoried the vehicle, and I stated I had not. So we
21 went up to the vehicle to see if there was any readily
22 visible signs that possibly could be tied in with the
23 Fauquier robbery.

1 Q Now, you did not get a warrant before you went up
2 to that vehicle, did you?

3 A No, sir.

4 Q You did not go to a magistrate or to a judge and
5 apply for a warrant, did you?

6 A No, sir.

7 Q So you go up to the vehicle and what happened?

8 A Several items were found in the front of the
9 vehicle, one being a gun, a couple of cameras. At this
10 point, I believe possibly -- I don't recall what else was
11 taken. That's what was taken out of the vehicle.

12 Q When you went up there to inventory this vehicle,
13 the vehicle was on a lot, wasn't it?

14 A Yes, sir.

15 Q And it was a fenced-in lot, wasn't it?

16 A No, sir, it was not fenced in. It is guarded by
17 dogs.

18 Q Guarded by dogs?

19 A Yes, sir.

20 Q So no private citizen can get into the car or
21 get near the car, can they?

22 A Only the garage owner, the wrecker yard owner
23 could.

1 Q And you had to get a key to the car from some-
2 place, didn't you?

3 A Yes, sir, it was locked.

4 Q And where did you get the key to the car?

5 A I don't recall.

6 Q From a man named Jenkins or Hawkins or something
7 like that?

8 A The key would either come from the sheriff's
9 office dispatcher or either from the wrecking yard owner.

10 Q And once you got the key to the car, you and
11 Investigator Wayland just went on up there to the lot and
12 walked on the lot and went to the car, opened the car and
13 looked in the car, didn't you? Isn't that what you did?

14 A Basically, yes, sir.

15 Q And you looked all around the inside of the car,
16 didn't you?

17 A No, sir. We generally just looked at the front
18 seat, the console in the front seat.

19 Q The console in the front seat?

20 A (Nodding head.)

21 Q Now, that console, what was that, in between the
22 two seats?

23 A Yes, sir.

1 Q And was it locked?

2 A No, sir.

3 Q Have a lid on it?

4 A I believe the lid was broken if I recall it.

5 Q But the lid was shut, wasn't it; wasn't it on top
6 of it?

7 A I don't recall that either.

8 Q Well, you got into the car before you looked in
9 the console, didn't you?

10 A Investigator Wayland was the one that actually
11 looked in the console or took any items from the vehicle.
12 I was present.

13 Q Did you see Officer Wayland open the door and go
14 into the car to get into the console, didn't he?

15 A That's true.

16 Q When he got into the console, what did he find?

17 A The things he saw or what he found, I can't
18 testify to, because I don't know what he saw because as I
19 said, I was outside the vehicle but he retrieved from the
20 console what appeared to be a pistol.

21 Investigator Wayland came -- he thought it was a
22 a toy pistol, a pistol loaded with live rounds, which later
23 turned out to be a blank gun loaded with live .22 rounds.

1 Q And he got that out of the console?

2 A Correct.

3 Q Did he get anything else out of the console?

4 A Some loose money, if I remember right. But as
5 far as any other items, I don't recall.

6 Q You said earlier that there were some cameras;
7 where did they come from?

8 A There were cameras in the vehicle in the front,
9 in the interior of the vehicle. When a complete inventory
10 was done, cameras were found in the trunk.

11 Q Found some cameras in the trunk?

12 A Yes, sir, just in those two places.

13 Q Pardon me?

14 A Just from those two places, the interior of the
15 vehicle and the trunk.

16 Q Do you know which cameras came from the interior
17 of the vehicle and which cameras came from the trunk?

18 A I have an inventory that would show it, yes, sir.

19 Q How long did you spend at the car at that time
20 with Investigator Wayland?

21 A At that point, less than 10 minutes; 10 or 15
22 minutes.

23 Q Pardon me?

1 A 10 to 15 minutes.

2 Q Did you go into the trunk at that time; too?

3 A I don't recall.

4 Q You don't recall whether you opened the trunk or
5 not?

6 A I don't recall whether we did or did not.

7 Q What did you do with these items that you took
8 from the console and inside the car at that time?

9 A We locked the vehicle back up, returned the keys
10 ourselves, and went back to the sheriff's office at
11 Culpeper, went through the camera and pistol, and some
12 loose change, loose money.

13 We were met there by the Fauquier sheriff's
14 deputies.

15 Q What time of day is it at this point when you
16 get back to the sheriff's office and you are met by the
17 Fauquier County sheriff?

18 A It would be approximately 12:20.

19 Q And then what did you do?

20 A Discussed with the Fauquier deputies as to the
21 type of crime they had and gave a description of what
22 vehicle I had seized and a description of the driver, and
23 two sketchy descriptions I could remember of the passengers,

1 at which time they interviewed Mr. Reese.

2 Q They wanted to interview Mr. Reese?

3 A Correct.

4 Q And what, then, happened?

5 A Mr. Reese was brought from the back, from the
6 jail section of the sheriff's office, and was taken to a
7 normal-size office room, at which time I was the only one
8 present in the room with him.

9 Q You went into the room with him alone?

10 A Yes, sir.

11 Q Did you shut the door?

12 A Yes, sir.

13 Q What happened?

14 A I advised him of his rights and I questioned him
15 as to the two subjects that were with him.

16 Q Now, when you say you advised him of his rights,
17 what did you do exactly?

18 A Pulled out a cardboard card which has what is
19 referred to as the Miranda warnings on it, read directly
20 from the card, asked the questions on the back as to whether
21 Mr. Reese understood his rights, and whether he desired an
22 attorney; at which time he indicated that he did understand
23 them and he did not request an attorney, and that he would

1 talk with me.

2 Q Pardon me?

3 A That he would talk with me.

4 Q Then what happened?

5 A Attempted to find out who the two subjects were
6 that were with him and he acted ignorant to the situation,
7 stated that he had picked them up hitchhiking, and I asked
8 where did he pick them up hitchhiking, and he did not recall,
9 just somewhere alongside the road, didn't recall what time
10 it was he had picked them up, how long they had been
11 travelling, and did not know their names or anything else.

12 Q And you did not believe him at that time, did you?

13 A No, sir, because he discussed -- he requested at
14 the time I arrested him to go back, two or three times, to
15 go back up to his vehicle to talk with the subjects that were
16 in the vehicle.

17 Q Then what did you do?

18 A I went out to bring the camera in. He stated, oh,
19 they had that with them.

20 A He said what?

21 A He stated, oh, they must have had that with them.

22 Q The first time you showed him the camera, he said
23 that?

1 A Yes, sir.

2 Q You are quite positive of that, is that right?

3 A He indicated whenever I questioned him the first
4 time, whenever I was trying to find out the identity of the
5 two subjects, he stated he picked them up hitchhiking and he
6 did not have anything. When I showed him the camera, he indi-
7 cated that they must have had that with them.

8 Q That they must have had it with them?

9 A Correct.

10 Q Then what did he say?

11 A I repeated the statement, that he just finished
12 telling me, that he didn't have anything with him, and he
13 said, well, it must have been dark and I didn't notice, they
14 must have had it under their coat or something and brought
15 it in with them.

16 Q So you were playing games with him at that time?

17 A I was interviewing him.

18 Q But you were trying to --

19 MR. BROWNELLE: Your Honor, I've been really pa-
20 tient. This is Mr. Williams witness, Your Honor. He
21 called the witness to testify. He has been leading
22 for the sake of speeding along the hearing and I have
23 not objected, but I am going to impose an objection

1 now that these questions are leading.

2 THE COURT: I am going to rule that he is adverse
3 to the Defendant.

4 MR. BROWNELLE: Your Honor, under the case of
5 Commonwealth versus Tate, he could be declared an adverse
6 witness if he said something on the stand after being
7 called as a witness by Mr. Williams, which was a surprise
8 to Mr. Williams, which is inconsistent with what he told
9 me before. Just being a police officer, he is not adverse.

10 THE COURT: Well, he took the statement from the
11 Defendant that the Defendant is trying to suppress and I
12 think that makes him adverse to the Defendant's position.
13 Go ahead.

14 BY MR. WILLIAMS:

15 Q In your questioning of Mr. Reese, you were using
16 things that you had observed and he had told you earlier
17 to contradict what he was telling you now, didn't you?

18 A Yes, sir, that they did not coincide with each
19 other.

20 Q And hhe reason you brought that camera into the
21 interview room was to try to get him to admit that he knew
22 something about that camera, didn't you?

23 A Yes, sir.

1 Q Because you knew that that camera was presumably
2 taken from somebody in the robbery, didn't you?

3 A In the Fauquier robbery, yes, sir.

4 Q Now, he first of all denied that he knew anything
5 about the camera, didn't he?

6 A Yes, sir.

7 Q And you did not believe him?

8 A That's correct.

9 Q So you continued to question him about that
10 camera, didn't you?

11 A No, sir.

12 Q Well, you asked him how could he have gotten
13 in there and he said, did he not as you just stated, that
14 somebody must have had it under their coat or something
15 like that?

16 A That's correct.

17 Q What did you go to next; what did you do?

18 A Presented him with a pistol which was found in
19 the console. He indicated they must have had that with
20 them also.

21 A He denied knowing anything about that, didn't he?

22 A He did at that.

23 Q Then what did you do then?

1 A I went and left the room, went back to the inves-
2 tigators from Fauquier; Investigator Wayland advised him
3 that he was going to play, that he appeared to be ignorant
4 or pretended to be ignorant of any such criminal activity
5 by himself or the two people he picked up, and advised him
6 that they might as well question him.

7 The reason I questioned him was on account he had
8 contact with me prior.

9 Q You actually told him that back there when you
10 went back there that Reese was not willing to confess up
11 to this thing, didn't you?

12 A No, sir.

13 Q You did not tell Wayland that the Defendant would
14 not admit, was not willing to admit to the circumstances of
15 this robbery down there in Warrenton when you went back
16 there and talked to him?

17 A Stated Reese did not appear -- it appeared that
18 he was going to act ignorant to any case.

19 A In other words, he was going to be a hard man to
20 crack, wasn't he, isn't that what you are saying?

21 A No, sir.

22 Q Do you recall testifying down in the case in
23 Warrenton; do you remember testifying in Warrenton?

MOTION
WILLIAMS-DIRECT

1 A Yes, sir.

2 Q And they had a motion to suppress down there,
3 too, didn't they?

4 A Yes, sir, I believe they did.

5 Q And you testified to that, did you not, on
6 December 27, 1978?

7 A On the motion to suppress?

8 Q Yes.

9 A Yes, I did.

10 Q And at that time, you testified, didn't you?

11 A Yes.

12 Q And I show you what has been -- I direct your
13 attention to page 46 of the trial transcript, or the
14 motion to suppress actually of the hearing before Judge --

15 MR. BROWNELLE: Your Honor, I object, unless
16 Mr. Williams lays the proper foundation. I've never seen
17 this document. He doesn't have it properly marked or
18 identified, until he lays the foundation for its being used
19 by this witness.

20 MR. WILLIAMS: I show you a copy of the transcript.

21 THE COURT: What is the page number?

22 MR. WILLIAMS: Page 46, Your Honor, is the page I
23 am going to use to refresh his recollection at this point.

1 MR. BROWNELLE: Just page 46?

2 MR. WILLIAMS: Yes.

3 BY MR. WILLIAMS:

4 Q I direct your attention to page 46, Officer, the
5 upper half of the page there. Would you read that and
6 refresh your recollection?

7 Have you read that, Officer?

8 A Yes, sir.

9 Q When you went back in to the detectives, the
10 Fauquier County detectives, leaving Mr. Reese in the room,
11 you told them that it seemed that he was not willing to
12 admit what the circumstances were, didn't you?

13 A As it shows in the transcript, states the general
14 questions I was asking him, at which time I did not make
15 any accusations to robbery or any other type of criminal
16 violation; that he was not admitting to circumstances in
17 which I was hinting around.

18 Q Well, you had just showed him a camera that you
19 believed came from a robbery, didn't you?

20 A That's correct.

21 Q And you just showed him a gun that you believed was
22 used by one of the persons who was involved in the robbery,
23 didn't you?

1 A That's correct.

2 Q Then you walked back in there and told Wayland
3 that it did not seem he was going to admit to the circumstan-
4 ces, and the circumstances you were talking about is the
5 robbery, isn't it?

6 A That's correct. The circumstances I am talking
7 about are whether Mr. Reese at the time -- I gave no indi-
8 cation that that was the circumstance I was talking about.
9 I just asked him if he knew where the articles came from.

10 Q Do you also recall testifying in Fauquier at
11 the trial of the same incident, in other words, after you
12 interrogated Reese initially and went back out to Wayland
13 and you said that Mr. Reese was not going to generally spill
14 out to what had occurred; do you recall testifying to that?

15 A I don't recall one way or the other, sir.

16 Q I direct your attention to page 108 of the trial
17 transcript down in Fauquier County dated December 27, 1978,
18 and I ask you to look at that, about the middle of the page;
19 see if that doesn't appear there.

20 A Yes, sir.

21 Q Is that right?

22 A It's in the trial transcript, yes, sir.

23 Q Do you remember testifying to that?

1 A No, sir, I still don't recall. It is in the trans-
2 cript which I presume is the correct words I said. But I
3 do not recall saying those words.

4 Q You were under oath down there in Fauquier Conty
5 weren't you?

6 A Yes, sir.

7 Q You have no reason to believe that that wasn't
8 what you said?

9 A No, sir.

10 Q After you went back to Wayland and talked to the
11 Fauquier County investigators, what then happened?

12 A Investigator Wayland and Officer Strom and
13 possibly Officer Woodward -- I don't recall whether he was
14 there or not -- went into the room.

15 Q So there were four of you in the room at that
16 time, yourself, Wayland, Strom, and Woodward, and maybe
17 somebody else, is that correct?

18 A No, sir.

19 Q How many?

20 A It would have been Mr. Reese, Investigator Wayland,
21 Investigator Strom, myself, and possibly Officer Woodward.

22 Q So possibly four police officers in this room
23 with the Defendant, is that right, at that time?

1 A That's correct.

2 Q Then what did you do?

3 A Investigator Wayland confronted Mr. Reese with
4 the camera, the gun, the money which was taken off his
5 person, and he stated that if he wanted to continue to act
6 ignorant to the crime, it was fine, but that we had -- or
7 something of the nature that the evidence was there to show
8 that he was directly involved with it.

9 Q In other words, you were going back in there, the
10 four of you, and really putting the pressure on Reese,
11 weren't you, because you didn't believe him, isn't that
12 right?

13 A Investigator Wayland -- I don't believe anybody
14 else was standing within 10 feet with him.

15 Q My question was, the reason you four went back in
16 the room with the pistol, again, and the cameras and the
17 money, was that you did not believe him and you were going
18 to try to get him to confess, weren't you?

19 A No, sir. We were trying to get him to confess
20 and we did not believe him, but he --

21 Q You were trying to get him to confess because you
22 didn't believe him, isn't that right?

23 A Yes, sir.

1 Q And in fact you said when you went back there,
2 you asked him at one point who did he think he was trying to
3 fool, didn't you?

4 A I believe that was language used in the room.

5 Q You testified to that down there in Warrenton,
6 didn't you?

7 A I don't recall my word for word testimony. You
8 have the transcript there, sir.

9 Q I show you again page 46 down toward the bottom of
10 the page, in regard to where you went back into the room
11 with the Defendant.

12 Didn't someone say at that time, who do you think
13 you are trying to fool playing ignorant?

14 A Yes, sir.

15 Q And right after that, Reese broke down and started
16 crying, didn't he?

17 A Yes, sir, shortly thereafter.

18 Q He wept, aren't those your words?

19 A Yes, sir.

20 Q And it was then that he finally said he was going
21 to tell you about it, didn't he?

22 A Yes, sir.

23 Q What time was that, that Reese broke down and

1 A Mr. Reese wrote a statement.

2 Q Well, I mean, you had him write it, is that right?

3 A Correct.

4 Q Do you have a copy of that statement with you?

5 A No, sir.

6 Q Who has the statement, if you know?

7 A Officer Strom in Fauquier. Officer Strom was
8 taking the notes and so forth at the time.

9 Q Now, then, what time was it, if you recall, that
10 you finally finished with Mr. Reese that afternoon?

11 A I believe he was released to the sheriff's office
12 at Fauquier to be taken back to the Fauquier jail or taken
13 to the Fauquier jail in the neighborhood of 3:00, 3:30,
14 somewhere in there.

15 Q Is that about the time you left his presence, too?

16 A Yes, sir.

17 Q And the detectives or deputy sheriffs down there,
18 whoever they are down there, are the ones that took him
19 back, right?

20 A I served the warrant; they brought a warrant down
21 from Fauquier charging him with robbery. I served the
22 warrant on him.

23 Q You held him there until the warrant came down

1 from Fauquier County and then you served it on him, is that
2 right?

3 A He still had never made bond on the original
4 charge. He was still in the custody of the sheriff's office
5 at Culpeper.

6 Q He didn't make bond, but I mean he was still
7 right there when they came down there with that warrant,
8 isn't that right?

9 A He was still in the same room, yes, sir.

10 Q After you served the warrant on him and he went
11 back to Warrenton, what did you do?

12 A Investigator Wayland and I went to the vehicle,
13 did a complete inventory on the vehicle.

14 Q And you did not get a warrant, did you?

15 A No, sir.

16 Q So later on that afternoon, right about 4 o'clock
17 in the afternoon, you and Wayland go back to the vehicle
18 and do a complete inventory, is that your testimony?

19 A Yes, sir.

20 Q How was that inventory done?

21 A Investigator Wayland and myself were outside the
22 vehicle or around inside-outside, and Investigator Wayland
23 had a dictating machine, at which time he himself would pick

1 up items and he would dictate it into his dictating machine,
2 and it was later typed by his secretary. He started in the
3 vehicle and went all the way through the vehicle, started
4 in the trunk.

5 Q You don't have any forms, inventory forms, do you,
6 that you fill out or anything like that, do you?

7 A Not on the seized vehicle.

8 Q Pardon?

9 A Not on the seized vehicle.

10 Q And no Virginia State Police Guidelines or any-
11 thing like that on how to inventory a vehicle, are there?

12 A Not with reference to seizing the vehicle.

13 Q And there's no set policy or anything about how
14 to go about inventoring a vehicle?

15 A Not with the Department of State Police.

16 Q And in other words, it was just you and Wayland
17 went through doing your own thing with regard to this
18 inventory, wasn't it?

19 A I don't recall. I don't understand what your
20 question is.

21 Q Well, I mean the two of you were going through the
22 vehicle and Wayland had a dictating machine of some sort,
23 and you two were going through the vehicle picking up the

1 THE COURT: Yes, sir.

2 (The document referred to was marked
3 as Defendant's Exhibit No. 1
4 for identification.)

5 MR. WILLIAMS: And I show this to Mr. Brownelle.

6 BY MR. WILLIAMS:

7 Q Trooper Williams, I show you what has been marked
8 as Defendant's Exhibit No. 1, which is a document containing
9 five sheets of paper and which you have testified is the
10 inventory that you and Investigator Wayland took on the
11 afternoon of July 22, 1978 in Culpeper.

12 Does that accurately reflect the inventory that
13 you and Investigator Wayland took and the location of the
14 items from the car, or from which these items were taken?

15 A It is a general location of where the items were
16 found, and it is a fairly accurate statement, if it is
17 is accurate as stated.

18 Q You say fairly accurate; I mean is there anything
19 in there that you know is inaccurate?

20 A Well, it is all accurate. The only thing I said
21 fairly for was, as I said, there's miscellaneous receipts that
22 do not accurately state, per se, each receipt. Miscella-
23 neous change, miscellaneous pictures, et. cetera.

1 MR. WILLIAMS: Your Honor, I would move this.

2 MR. BROWNELLE: I object, Your Honor. Mr.
3 Williams has asked this police officer to supply something out
4 of his notes that is not discoverable, and I don't believe
5 he can put a witness, take a witness such as a police
6 officer, a state trooper, and by putting him on the stand, get
7 his thoughts on notes, and I object for that reason.

8 I think it is improper, and number two, it is
9 hearsay. Unless this trooper actually prepared that list
10 himself, anything that is on there -- he has testified
11 that somebody has prepared the list; he is testifying to what
12 somebody else put on a piece of paper, and it is hearsay.

13 THE COURT: Why don't you lay a foundation, see
14 if he has any knowledge of who prepared it or what.

15 BY MR. WILLIAMS:

16 Q You were there while Investigator Wayland was
17 going through the car or was dictating this, weren't you?

18 A Yes, sir.

19 Q And you took the items out of the car and
20 Investigator Wayland took the items out of the car and as
21 they were taken out, he dictated into the machine, didn't he?

22 A That's correct.

23 Q And you were doing this simultaneously together,

1 going through the car inventoring it, weren't you?

2 A Correct.

3 Q And you could hear him as he stated whatever it was
4 he put on the machine, that he put on there, couldn't you?

5 A That's correct.

6 MR. WILLIAMS: Your Honor, I see no reason why --

7 THE COURT: Do you want to voir dire?

8 VOIR DIRE

9 BY MR. BROWNELL:

10 Q Who typed this document, sir?

11 A The secretary of Investigator Wayland, by use of
12 an earplug, I assume.

13 Q Who had the dictating machine, did you?

14 A No, sir. Investigator Wayland had that.

15 Q Wayland had that; he was dictating as to what you
16 told him was taken out of the car?

17 A What I showed him, what I told him, right.

18 Q Pardon?

19 A What I showed him and what I told him, correct.

20 Q So you did not know what he was saying on his
21 dictating machine at the time you were taking these items
22 out; you told him what you took out of the car, but you do
23 not know what he was saying on the dictating machine, do

1 you?

2 A Just what I heard.

3 Q But you cannot say as to every one of these items
4 that they were items taken out of the car, can you?

5 A I can't state that they are, but the list is
6 correct. I did not type the list.

7 Q I'm sorry?

8 A I did not type the list myself, and I did not hear
9 the dictating machine being replayed.

10 Q So you never compared what was on the dictating
11 machine with what you actually took out of the car or
12 inventoried in the car?

13 A It can't say it's true on one basis.

14 MR. BROWNELLE: Your Honor, I object to it.

15 THE COURT: I have to sustain it at this point.
16 He can't identify it as being accurate, Mr. Williams.

17 MR. WILLIAMS: May I ask one or two more
18 questions?

19 THE COURT: Go ahead, sir.

20 BY MR. WILLIAMS:

21 Q I show you again what is marked as Defendant's
22 Exhibit No. 1. Isn't it a fact that as -- did you go through
23 the car and pick up items in the car?

1 A I picked up some items, yes, sir.

2 Q As to one of these items, let's say one Polaroid
3 land camera, Pronto model with case, no serial number, now
4 you picked that up, didn't you, physically?

5 A I can't recall.

6 Q Who was picking the items up; were you or was
7 Wayland?

8 A Both of us were.

9 Q But when you picked an item up, did you hand it
10 to Wayland and then did you overhear him say what it was
11 on the tape?

12 A Sometimes I would just read off what the item
13 is, and just show him, at which time I'd go back to pick up
14 another item depending in what part of the vehicle it was.
15 On the interior, some of the interior, he was standing
16 outside the vehicle and I was handing the items the items
17 outside the vehicle.

18 Q Is there any doubt in your mind that the one
19 Polaroid land camera, Pronto model with case, no serial
20 number, listed there as No. 3 and coming from the trunk of
21 the vehicle, is there any doubt in your mind that that came
22 from the trunk of the vehicle?

23 A That came from the trunk of the vehicle.

1 Q And as to the other items that came, there is no
2 doubt in your mind that they came from the place where they
3 were stated, isn't that right?

4 A I can't state that the items are truly depicted
5 as accurate. It could have been human error in the typing
6 of it; it could have been something overlooked or not,
7 but I presume the inventory is accurate.

8 Q Well, you were not just doing this inventory
9 to pass the times of day, were you?

10 A No, sir. I go through all vehicles I seize.

11 Q Pardon?

12 A I go through all vehicles I seize.

13 Q And you do that for several reasons, don't you,
14 inventory the vehicles?

15 A Yes.

16 Q One of them is to get an accurate indication of
17 what's in that vehicle, so if a man comes back to you again
18 and says, I left a \$5,000 diamond ring in the vehicle, you
19 can say that it wasn't in there when you inventoried it,
20 isn't that what you do it for?

21 A That's correct, yes.

22 Q And so this is accurate, is it not, to what was
23 in that vehicle?

1 A I answered that question.

2 Q Pardon?

3 A I said I have answered that question as far
4 as -- I believe that the list is correct.

5 Q To the best of your knowledge?

6 A To the best of my knowledge, it is correct.

7 Q And as an officer for seven or eight years and a
8 person who is conscientious about what he is doing, you
9 prepared that along with Wayland as conscientiously as you
10 could, didn't you?

11 A That's correct.

12 MR. WILLIAMS: All right, Your Honor.

13 THE COURT: Any further argument?

14 MR. BROWNELLE: This police officer is saying as
15 far as he is concerned it is accurate, but he cannot say
16 that what he told Wayland was in the car, Wayland actually
17 put on the sheet of paper. Wayland could have put a lot
18 of things on there that weren't in the car. He has no
19 way of telling that.

20 THE COURT: Court will overrule your objection.
21 I will admit it, and note your exception.

22 (The document heretofore marked as
23 Defendant's Exhibit No. 1 for identification was received in evidence.)

1 yourself?

2 A I talked with the Defendant for approximately 10
3 minutes by myself.

4 Q Ten minutes. And he wasn't willing -- he denied
5 any involvement. Did you ask him whether he was involved
6 in the robbery in Fauquier County?

7 A No, sir, I did not.

8 Q You did not ask him that? All right. What did
9 you ask him at that time?

10 Q At the time what I was interested in was who the
11 other two subjects were that were with him.

12 Q And-at that time he told you he just picked them
13 up hitchhiking?

14 A He stated he picked them up hitchhiking, so I
15 never implicated any robbery or anything.

16 Q Prior to speaking to him, what, if any, rights
17 did you give him?

18 A I gave him the rights as stated, as on the
19 Miranda warning.

20 Q Do you have that card with you?

21 A Yes, sir. I read directly from this card, both
22 front and back, and the Defendant indicated that he did
23 understand what I read to him.

1 Q You told him he had the right to remain silent,
2 didn't have to talk to you?

3 A I did.

4 Q And you told him that anything he would say can
5 or would be used against him in a court of law?

6 A Yes, sir.

7 Q And you told him he had the right to an attorney?

8 A Yes, sir.

9 Q That he had the right to have him present?

10 A Correct.

11 Q That if he could not afford one, one would be
12 appointed for him?

13 A That's correct.

14 Q Did he appear to understand those rights?

15 A Yes, sir.

16 Q Did you tell him that if he decided to stop talk-
17 ing to you at anytime, he could stop talking to you?

18 A Yes, sir.

19 Q Did he understand that?

20 A Yes, sir.

21 Q Did he talk to you?

22 A Yes, sir.

23 Q Did he ever tell you that he did not want to talk

1 to you?

2 A No, sir.

3 Q Did he ever tell you that he wanted an attorney?

4 MR. WILLIAMS: Objection, Your Honor. He is
5 leading.

6 MR. BROWNELLE: It is his witness.

7 THE COURT: I know, but I think you've got to
8 ask him direct questions. I think he is your witness,
9 really.

10 MR. BROWNELLE: Your Honor, I object to this.
11 I have not seen a case where a suppression motion for the
12 defense has called a witness, even being a police officer,
13 where that police officer is not a defense witness.

14 THE COURT: He makes him as an adverse witness.
15 He is adverse to Defendant's position. He is seeking to suppress
16 a confession, and he is obviously adverse to the defense.
17 I don't think that is even debatable, that he is adverse
18 to the defense. So he has the right to cross examine; that
19 makes him your witness. He is a trooper; you are calling
20 him as your witness, really.

21 MR. BROWNELLE: I have no right to cross examine?

22 THE COURT: No, sir. You are limited to direct
23 questions.

1 MR. BROWNELLE: Note my exception.

2 THE COURT: Yes, sir. You can get the statute
3 and look it up.

4 MR. BROWNELLE: If Your Honor please, rather than
5 take the Court's time --

6 THE COURT: All right, sir. I will give it to
7 you before we recess. Go ahead.

8 BY MR. BROWNELLE:

9 Q Did the Defendant ever request that an attorney
10 be present?

11 A No, sir.

12 Q Did he ever request to talk -- that he wanted to
13 talk to anybody other than you?

14 Did he request any family members to be present?

15 A No, sir.

16 Q During the time that you were interviewing the
17 Defendant, did you ever discuss -- did there ever come a
18 time that you discussed any robberies in any other
19 jurisdictions besides Fauquier?

20 A No, sir.

21 Q Did anyone do that in your presence?

22 A Could you repeat the question?

23 Q Did anybody in your presence -- did there ever come a

1 time that anybody in your presence, any of the other
2 investigators, discussed with Mr. Reese any robberies in
3 any other jurisdictions other than Fauquier?

4 A No, sir.

5 MR. BROWNELLE: That's all I have.

6 THE COURT: Mr. Williams, any redirect?

7 MR. WILLIAMS: No further questions of the
8 officer.

9 THE COURT: All right. Do you want him excused
10 or subject to recall?

11 MR. WILLIAMS: Subject to recall.

12 THE COURT: All right, sir.

13 Mr. Brownelle, that is 8:01-404.

14 MR. BROWNELLE: All right, thank you, Your Honor.

15 THE COURT: Call your next witness.

16 Whereupon,

17 JAMES RIDDEL

18 was called as a witness, and after being duly sworn by the
19 Clerk of the Court, was examined and testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. WILLIAMS:

23 Q Investigator Riddel, will you state your full

1 estimate?

2 MR. BROWNELLE: I would say no more than a half
3 an hour.

4 THE COURT: And that includes argument, too?

5 MR. BROWNELLE: Yes, sir.

6 THE COURT: So approximately an hour. All right,
7 sir. Go ahead.

8 BY MR. WILLIAMS:

9 Q My question, I believe, Investigator Riddel, was
10 were you working on the Fairfax County Police Department
11 in July of 1978?

12 A Yes, sir.

13 Q Around the 22nd-of July or the 23rd of July, did
14 you, or did it come to your attention that a person was
15 arrested down near Culpeper, Virginia, by the name of
16 Richard Reese?

17 A Yes, sir.

18 Q And did you learn of the facts and the circum-
19 stances of his arrest?

20 A Just that he was arrested in Culpeper, Virginia,
21 and I was called by the Culpeper Sheriff's Department.

22 Q Well, you knew what he was arrested for, didn't
23 you?

1 A Yes, that's correct.

2 Q For a motel robbery, wasn't it?

3 A Correct.

4 Q And as a result of that, you had some cases up
5 here that were open, some motel robberies, didn't you?

6 A Yes, sir.

7 Q And you learned of the motis operandi of this
8 motel robbery down in Warrenton, didn't you?

9 A That's correct.

10 Q And you put two and two together and the man became
11 a suspect in your opinion, didn't he?

12 A That's correct.

13 Q As a result of that, did there come a time when
14 you went down to Warrenton, Virginia?

15 A Yes, I did.

16 Q Let me back up a minute. When did you learn of
17 this, about Mr. Reese, on the 22nd of July or the 23rd of
18 July?

19 A On the 22nd of July.

20 Q What time of day on the 22nd?

21 A I was called by our department -- it was around
22 5 p.m. on the 22nd. I was at home. It was a Saturday.

23 Q And did you then call somebody down in Warrenton?

1 A Yes. I called Investigator Wayland of the
2 Culpeper Sheriff's Department.

3 Q And Investigator Wayland told you that he had
4 interrogated this man Reese, didn't he?

5 A No, sir, he did not tell me that.

6 Q What did he say to you about Mr. Reese?

7 A He stated Mr. Reese had been charged by Fauquier
8 Sheriff's Department for a motel robbery, and I advised
9 him that I would respond to Culpeper the next day, or
10 Warrenton.

11 Q Well, he told you, didn't he, that Mr. Reese had
12 made a statement in regard to his involvement in that
13 motel robbery, didn't he?

14 A No, I don't recall him telling me about a
15 statement at that time.

16 Q All right. After that telephone call, did you
17 then go down to Warrenton some time?

18 A Yes, I went down the next day, on the 23rd.

19 Q What time did you get to Warrenton?

20 A Approximately 4 p.m.

21 Q And did you go talk to Investigator Wayland?

22 A Yes. I had talked to him previously at Culpeper.

23 Q You had a second conversation with him, is that

1 your testimony?

2 A Yes. I talked to him by phone the 22nd, and I
3 talked to him in person on the 23rd in the afternoon.

4 Q And where was that conversation with Detective
5 Wayland on the 23rd?

6 A At the Culpeper sheriff's department.

7 Q And how long did you talk to him there at the
8 Culpeper sheriff's department?

9 A Approximately an hour, I would say.

10 Q An hour or so?

11 A Yeah.

12 Q And you learned at that time, did you not, that
13 Reese had made a confession to the police there in Fauquier
14 County, didn't you?

15 MR. BROWNELLE: I would object. That is calling
16 for hearsay.

17 THE COURT: Is that really an issue, Mr. Brownelle,
18 whether he learned about it or not? If it is an issue, I
19 suppose it is hearsay.

20 BY MR. WILLIAMS:

21 Q You talked to Investigator Wayland about all the
22 circumstances of Mr. Reese's involvement, alleged involve-
23 ment in a robbery down there in Warrenton, didn't you?

1 Wayland might have said, the truthfulness of the statement,
2 then --

3 MR. WILLIAMS: I don't care what Wayland
4 told him.

5 I just want to know --

6 THE COURT: All right.

7 Go ahead.

8 BY MR. WILLIAMS:

9 Q What did Wayland tell you with regard to the
10 statement that Mr. Reese had made to him the previous
11 afternoon?

12 A The only thing I recall Investigator Wayland
13 telling me was that Mr. Reese had made a statement. Whether
14 he made it to Investigator Wayland of Fauquier County
15 Sheriff's Department, I did not know. I don't know what
16 the contents of any statement was that Mr. Reese allegedly
17 made to these investigators.

18 Q But you knew that that statement was an incrimi-
19 nating statement that Reese had made the previous afternoon,
20 didn't you?

21 A He stated he had made a statement. I don't know
22 who the statement was made to. I just don't know.

23 Q Did Wayland at all go into saying how it was

1 obtained?

2 A No, sir.

3 Q Did Wayland show you some materials or some items
4 that were taken from an automobile?

5 A Yes, sir. I was shown --

6 Q And he told you that this automobile was driven by
7 the Defendant, didn't he? when he was arrested?

8 A Yes, sir. I think.

9 Q After you talked to Wayland for about an hour,
10 you said, what, you went back and you went to Warrenton?

11 A That is correct.

12 Q And who was with you at that time?

13 A Investigator Reed, Fairfax City.

14 Q What happened when you got to Warrenton; what
15 did you do?

16 A Went to the Fauquier County sheriff's department.

17 Q The jail there?

18 A Correct.

19 Q And you went down to the place where the desk is,
20 the counter there?

21 A That's right.

22 Q And you asked if you could speak to Richard
23 Reese, didn't you?

1 A That's correct.

2 Q And you -- it is you and Detective Reed, isn't
3 it?

4 A Yes.

5 Q And they of course said you could?

6 A That's right.

7 Q And it wasn't long before he was brought down
8 there, was it?

9 A Yes, sir.

10 Q And the place you interviewed him was right off
11 the main aisle there going back into the cellblock is a
12 little room, isn't it?

13 A Right.

14 Q And that room has no windows, does it?

15 A I am not sure. I don't think it has any windows.

16 Q And it is about shoulder-high, and it has got a
17 shelf that goes around the room part way, doesn't it?

18 A It is a small room. I would say it is 8 by 12.
19 I don't recall.

20 Q 8 by 12? In other words, it is not any bigger or
21 not quite as big as this section of the courtroom right here
22 by these doors, right? (Indicating)

23 A It's no bigger.

1 A It's no bigger.

2 Q In fact, it is a little smaller, isn't it?

3 A No, I would not say that.

4 THE COURT: I'm sorry, I did not hear your answer.

5 THE WITNESS: I don't think it is any smaller
6 than that.

7 BY MR. WILLIAMS:

8 Q And you closed the door, of course, when you
9 talked to him, didn't you?

10 A Correct.

11 Q And it was you and Investigator Reed and Mr.
12 Reese, isn't that right?

13 A Yes, sir.

14 Q And initially you just sort of passed the time of
15 day with him, didn't you, asking him where he was, where
16 he was from, and what his address was and so forth, didn't
17 you?

18 A No. I advised him, showed him my identification
19 my credentials of who I was and that I was investigating a
20 robbery that occurred at the Chilla Villa Motel in Fairfax
21 County on Lee Jackson Highway on July the 17th, at
22 approximately 3 a.m, and I had considered him a suspect in
23 this case.

1 And then he was advised of certain rights on
2 a waiver form, and he signed the waiver form.

3 Q And then you began to interview him about this
4 robbery?

5 A I interviewed him about it, yes, sir.

6 Q And he first denied it, didn't he?

7 A No, sir, he didn't.

8 Q He denied any knowledge of it, didn't he?

9 A No, sir.

10 Q He came right out and told you that he was
11 involved in the robbery?

12 A He stated that he was involved in it and told me
13 the other people that was involved in the robbery also.

14 Q You told him, didn't you, that there were some
15 items found in the car that you thought came from that
16 robbery, didn't you, at the Chilla Villa?

17 A Yes, sir, after he was advised of certain rights
18 and waived his rights, I stated that we had items which
19 came from the vehicle, and he stated that there was a camera
20 and a tape player that he obtained from the particular
21 robbery.

22 Q I mean, you told him that you had these items
23 and you knew that they came from the Chilla Villa, didn't

1 you; and that you confronted him with those items and said
2 did you take those items?

3 A He said he took those items.

4 Q But I mean it happened in that sequence, didn't
5 it?

6 A Yes, sir.

7 Q And you interviewed him there for about an hour
8 and 20 minutes, didn't you?

9 A Yes, sir, hour and 20 minutes.

10 Q At anytime did you ask him if he wanted a lawyer
11 during the thing other than at the time that you advised
12 him of his rights?

13 A No, sir. Afert he read his rights, I did not
14 mention it to him.

15 Q Did you at anytime tell him that the offenses that
16 had occurred at the Chilla Villa had a maximum punishment
17 of life in jail?

18 A No, sir, I didn't tell him that.

19 Q And it is your testimony, he came right out and
20 admitted that robbery right off the bat, is that right; and
21 that he never denied any knowledge of it or anything like
22 that? when you were talking with him?

23 A No, sir, he didn't.

1 Q And you are absolutely certain of that statement,
2 are you not, that he did not initially deny any knowledge
3 of this?

4 A To the best of my knowledge, I am certain he did
5 not deny it.

6 MR. WILLIAMS: No further questions.

7 THE COURT: Mr. Brownelle?

8 CROSS EXAMINATION

9 BY MR. BROWNELLE:

10 Q How did you go about reading those rights to him?

11 A I had a standard waiver form that we have in the
12 police department. I read the certain rights to him,
13 the Defendant, and he read these and said he understood them,
14 and stated he could read and write and -- I don't have the
15 form with me, but I think he said he had a 10th grade
16 education.

17 MR. BROWNELLE: Your Honor, I would like to have
18 this --

19 THE COURT: All right. Exhibit No. 1 for the
20 Commonwealth?

21 MR. BROWNELLE: Yes, in this particular case.
22 This comes from another file.

23 THE COURT: That's all right, sir. We will mark

1 it in this case.

2 (The document referred to was marked
3 as Commonwealth's Exhibit No. 1
4 for identification.)

5 BY MR. BROWNELLE:

6 Q I would like to show you what has been referred to
7 as Commonwealth's Exhibit No. 1 for identification. Can
8 you identify it?

9 A Yes, sir.

10 Q What does it say?

11 A You want me to read it?

12 Q What is it?

13 A It is a warning and consent standard form that we
14 use in the police department for certain rights when we advise
15 individuals.

16 Q How does it relate to this case, if it does?

17 A I read these to the Defendant and he read them,
18 said he understood, and stated that he had a 10th grade
19 education, that he could read and write, and he signed the
20 form. I put the time and date on it, witnessed it, and then
21 we discussed this particular --

22 Q Did you threaten him in any way?

23 MR. WILLIAMS: Objection, Your Honor. He is

1 leading.

2 THE COURT: Overruled; it is his own witness.

3 BY MR. BROWNELLE:

4 Q Did you threaten the Defendant?

5 A No, sir.

6 Q Did you promise him anything?

7 A No, I didn't.

8 Q Did he appear to be under the influence of any
9 type of intoxicants at the time?

10 A No, sir.

11 Q Did he appear to understand what you were saying?

12 A Yes.

13 MR. WILLIAMS: Objection, Your Honor, to the
14 leading.

15 THE COURT: Overruled.

16 THE WITNESS: Yes, sir, to the best of my
17 opinion, he understood everything that I was saying.

18 BY MR. BROWNELLE:

19 Q Did he choose to speak to you, to waive his
20 rights?

21 A Yes, sir.

22 Q Did he at anytime -- did he ask for an attorney
23 at anytime?

1 A No, sir.

2 Q Did he ever ask to have any of his family members
3 or friends present?

4 A No, sir.

5 Q What time of day and hour were you interviewing
6 him?

7 A This was in the evening, approximately 4:25 p.m.
8 on a Sunday afternoon.

9 Q What date was that, sir?

10 A On July the 23rd, 1978.

11 Q Did you have any type of recording device with
12 you?

13 A No, sir, I didn't.

14 Q MR. BROWNELLE: I have no other questions of this
15 witness.

16 THE COURT: Redirect?

17 REDIRECT EXAMINATION

18 BY MR. WILLIAMS:

19 Q You testified that he chose to speak with you,
20 didn't you; is that what your testimony was?

21 A That's correct.

22 Q You called him down there, didn't you, to the
23 room; you had him called down there, didn't you, by the

MOTION
REED-DIRECT

1 A It was approximately 4 o'clock

2 Q And you went in and talked t

3 right?

4 A At 4:25 p.m., yes, sir.

5 Q 4:25?

6 A Yes.

7 Q And in an enclosed room, is that right?

8 A Yes, sir.

9 Q And he was advised of his rights, was he not?

10 A Yes, sir, he was.

11 Q And you or Detective Riddel began asking him about
12 a robbery at the Chilla Villa Motel here in Fairfax County,
13 didn't you?

14 A Yes, sir.

15 Q And he initially denied any knowledge of that,
16 didn't he?

17 A At first, yes, sir.

18 Q There's no doubt in your mind that at first he
19 denied knowing anything about that, is there?

20 A Yes, sir.

21 Q And then after that, you confronted him with
22 some property. You said this property was taken out of
23 your car, the camera or whatever, and at that time, then, he

1 became more cooperative and told you about the robbery,
2 is that right?

3 A I don't recall the property, just where it came
4 in, at that particular time, or if it was brought up.

5 Q But it was after you told him about that, that
6 he told you about the robbery, isn't that right?

7 A I don't recall the sequence.

8 MR. WILLIAMS: No further questions.

9 THE COURT: Mr. Brownelle?

10 MR. BROWNELLE: No questions.

11 THE COURT: Do you want him subject to recall,
12 sir?

13 MR. WILLIAMS: Yes, sir.

14 THE COURT: You are subject to recall. Do you
15 want a short recess, gentlemen?

16 MR. WILLIAMS: Your Honor, would the Court advise
17 the prosecutor--maybe there is no need for it at all -- not
18 to talk to his witnesses about the testimony that has gone
19 on in here today?

20 THE COURT: Well, he is bound by that. He can
21 ask questions, but he can't tell them what other witnesses
22 have testified to.

23 MR. BROWNELLE: Right.

1 day of July, 1978, were you so employed at that time?

2 A Yes, sir.

3 Q And did there come a time that you came in contact
4 with a Trooper Williams on that date?

5 A Yes.

6 Q Did there come a time that you had occasion to
7 go with Trooper Williams to the place where the motor
8 vehicles are stored?

9 A Yes, sir, I did.

10 Q What was your purpose for going there?

11 A To inventory a vehicle that he had confiscated.
12 earlier that day.

13 Q In whose custody was that motor vehicle at that
14 time?

15 A It would be in the sheriff's custody.

16 Q And you are with the sheriff's department?

17 A Yes, sir.

18 Q What, if any, policy do you have for inventory
19 of motor vehicles that are in your custody?

20 A We have a policy in our department that all vehi-
21 cles are to be inventoried.

22 Q How long have you had that policy?

23 A I think it is from 1975 or 1976.

1 MR. BROWNELLE: Your Honor, I would like to have
2 this marked as a Commonwealth's Exhibit.

3 THE COURT: All right, sir. No. 2.

4 (The document referred to was marked
5 as Commonwealth's Exhibit No. 2.
6 for identification.)

7 BY MR. BROWNELLE:

8 Q And, Officer --

9 MR. WILLIAMS: May I see it, please.

10 BY MR. BROWNELLE:

11 Q I show you what has been marked as Commonwealth's
12 No. 2 for identification. Can you identify those photographs,
13 sir?

14 A Yes, I can.

15 Q And who took the photograph?

16 A I did.

17 Q When did you take it?

18 A I'm really not sure. I would say two or three
19 months ago.

20 Q What does that photograph depict?

21 A It is a notice that is tacked up in our dispat-
22 cher's room on the side of a filing cabinet notifying all
23 personnel to inventory cars when they are seized or

1 confiscated. I will read it if the Court --

2 MR. BROWNELLE: Well, I am going to introduce it.
3 I ask that this be received in evidence as No. 2.

4 MR. WILLIAMS: I would object. It is a photograph
5 of some notice that -- I don't know why they are intro-
6 ducing it, anyway, but I object to it as not being the
7 best evidence. I mean, if they want a copy of the notice
8 introduced, there is no way you can tell the authenticity
9 of that notice from looking at the photograph.

10 You can't examine the signature on it. You
11 don't know what it is.

12 THE COURT: Court will overrule the objection
13 and note your exception.

14 (The document heretofore marked as
15 Commonwealth's Exhibit No. 1 for iden-
16 tification was received in evidence.)

17 BY MR. BROWNELLE:

18 Q Did there come a time that you actually made an
19 inventory of that vehicle?

20 A Yes, there did.

21 Q What is the purpose for that policy, sir?

22 A It is to protect the owner of the vehicle, the
23 owner of any property in the vehicle, and also ourselves.

1 Q When making the inventory of this particular
2 vehicle, did you have occasion to go into the trunk of the
3 vehicle?

4 A Yes, I did.

5 Q And how did you get into the trunk?

6 A With the keys.

7 Q And at the time that you did gain entry to the
8 trunk, when you opened the trunk, were there any items in
9 the trunk of the car?

10 A Yes, sir, there was.

11 Q Did there come a time that you found a Polaroid
12 camera in the trunk of the car?

13 A Yes, sir.

14 Q Was it a Pronto camera?

15 A Yes, sir.

16 THE COURT: What kind of camera?

17 MR. BROWNELLE: Polaroid Pronto.

18 BY MR. BROWNELLE:

19 Q Did you take the camera into your possession?

20 A Yes, sir.

21 Q What did you subsequently do with the camera?

22 A The camera was put in our evidence room and then
23 it was turned over on July 23rd, 1978, at approximately

1 2:15 p.m., and it was turned over to Detective Riddel of
2 Fairfax County.

3 Q Were there any other items in the trunk of the
4 car?

5 A Yes, sir, there was many items.

6 Q What were done with these items?

7 A They were also placed in our evidence room and
8 some still remain there.

9 Q With regard to the ones that still remain there,
10 were those ever determined to be the proceeds of any type
11 of crime?

12 A The ones that I still have, as far as I am
13 concerned, belong to the owner.

14 Q And why are you keeping them there in your
15 evidence locker?

16 A Well, they've got to be protected somewhere.

17 Q What are your intentions with regard to this
18 piece of property?

19 A I will return them to the rightful owner when he
20 claims them, or someone in our department will.

21 Q Did you have occasion to speak to the Defendant
22 in this case, Mr. Reese, on or about that date?

23 A Yes, sir.

1 Q Did you ever speak to him about any type of a crime,
2 a robbery occurring within the County of Fairfax?

3 A Yes, sir, I believe I did.

4 Q When was that?

5 A I believe on -- I believe it was Sunday morning
6 the following -- it would be the 23rd. I advised the
7 Defendant that two detectives were coming from Fairfax
8 County to talk to him about some cases that happened in
9 Fairfax County.

10 Q Is that the only conversation you had with him
11 about Fairfax County?

12 A Yes, sir, to the best of my knowledge..

13 MR. BROWNELLE: Your Honor, that is all I have.

14 THE COURT: Mr. Williams?

15 CROSS EXAMINATION

16 BY MR. WILLIAMS:

17 Q You say you talked to the Defendant on Sunday,
18 the 23rd of July?

19 A Yes, sir.

20 Q What day was that?

21 A I believe it was on a Sunday.

22 Q What time of day was it that you talked to him?

23 A It was in the morning hours, sir.

1 made to you down there in regard to his involvement in that
2 robbery, didn't you?

3 A I told him that a statement had been made. I
4 didn't tell him --

5 Q And the clear implication of that was saying that
6 the guy was incriminating himself, wasn't it?

7 A Yes, sir. I said he was talking about it, I
8 think.

9 Q You would not have told Detective Riddel, the
10 guy is maintaining his innocence, would you?

11 A No. Well, I told Detective Riddel what happened,
12 yes, sir.

13 Q That he was involved in this motel robbery and
14 everything else about it, didn't you?

15 A Yes, sir.

16 Q And Riddel and you conferred about it and it
17 sounded like he was involved, maybe involved in a robbery
18 up in Fairfax?

19 A Yes, sir, it was a possibility.

20 Q There were several robberies up in Fairfax?

21 A I did not know the circumstances of what was going
22 on up in Fairfax.

23 Q But the reason that the detectives were coming

1 A Yes.

2 Q And Williams ever got there, didn't he?

3 A Yes, sir.

4 Q And after Williams got there, the two of you sat
5 down and talked about that teletype and all this information
6 about these three persons being involved in that robbery,
7 didn't you?

8 A Yes, sir.

9 Q And you asked Williams questions about, you know,
10 the people, when they arrested him if there were three
11 persons, what kind of car it was, and everything else,
12 didn't you?

13 A Yes, sir.

14 Q Putting two and two together, and indicating that
15 these might be the suspects in this robbery, isn't that
16 right?

17 A Yes, sir.

18 Q After you and Williams had that conversation, you
19 then decided to go out and inventory the car, didn't you?

20 A After I had found out that he had not inventoried
21 it, yes, sir.

22 Q And you didn't go get a warrant before you went
23 to inventory the car, did you?

1 A You mean a search warrant?

2 Q You didn't get a search warrant for that car,
3 did you?

4 A No, sir, I did not.

5 Q So then you and Williams went out there and searched
6 the car, is that right?

7 A We inventoried the car, sir.

8 Q Did you get a key for it somewhere?

9 A Yes, sir.

10 Q Where did you get the key?

11 A From the man that owns the wrecking yard and
12 the storage yard.

13 Q And the car was guarded by dogs up there where it
14 was, wasn't it?

15 A Yes.

16 Q And it was locked when you got there, wasn't it?

17 A Yes, sir.

18 Q And you opened the door of the car and went in
19 and began looking around in the car, is that right?

20 A I began making a list of the items in the car
21 with -- I had a tape recorder, listed everything with the
22 tape recorder right on down the line.

23 Q At that time at noon or shortly after noon was

1 when you first went out there with Williams?

2 A Here again, I am not positively sure. It seems
3 to me that we did go some time soon after Trooper Williams
4 arrived at our office. We went out. We returned to the
5 office. That is when, I believe, Fauquier County was in
6 fact notified.

7 We then, I believe, returned to the car and
8 finished our inventory.

9 Q Isn't it a fact that you went out there, when
10 Williams got there, the two of you discussed this, felt
11 that there was some awfully suspicious circumstances here
12 and put two and two together, then went out to the car,
13 and went into the console between the two front seats of
14 the car, and got a gun and a camera, or two cameras from
15 someplace, and also some loose money that was in there,
16 and then returned to the sheriff's office, and either had
17 previously notified the --

18 A I could not swear what we got out of the car the
19 first time. I really did not make any notes the first time we
20 went.

21 Q Well, whatever you got out of the car the first
22 time, that was the stuff that you, when you talked to the
23 Defendant that afternoon, you showed him, didn't you?

1 A I did not. I was not present when the Defendant
2 was talked to about the Fauquier County robberies.

3 Q You were never present at all?

4 A I may have been in and out of that particular
5 office, but I did not sit down and talk with him about it.

6 Q Now, then, later on in the afternoon, isn't it
7 true that it is then when you and Officer Willaims or
8 Trooper William went back out to the car, you with your
9 tape recorder, and recorded all the items that were taken
10 out of the car, is that correct?

11 A Like I said, if my memory is correct, we went
12 back and finished the inventory.

13 Q I show you what has been marked as Defendant's
14 Exhibit No. 1 for identification, and I show you the list of
15 items. I think it contains about five pages; look at all
16 five pages.

17 Investigator Wayland, is that copy of
18 Defendant's Exhibit No. 1, is that a copy of the inventory
19 that you dictated into your dictating machine?

20 A Yes, sir, it is.

21 Q On July the 22nd, 1978 when you were going through
22 this car?

23 A Yes, it is.

1 Q Does that accurately reflect the items that were
2 taken from the car and the place from which they were taken
3 in the car?

4 A Yes, sir, it does.

5 Q And you did that as accurate as possible, didn't
6 you?

7 A Yes, sir, I did.

8 Q You have a copy of that list with you, do you?

9 A Yes, I do.

10 Q That camera that you described on direct examina-
11 tion, the Polaroid land camera, Pronto model, is that what
12 it is called?

13 A Yes, sir.

14 Q That came from the trunk, is that right?

15 A Yes, sir, it did.

16 Q So you recovered that the second time you went
17 back to the car, is that your recollection?

18 A Yes, sir, it is. That's my recollection.

19 MR. WILLIAMS: No further questions.

20 THE COURT: All right, sir. Any questions?

21 MR. BROWNELLE: A couple more questions, Your
22 Honor.

23 REDIRECT EXAMINATION

BY MR. BROWNELLE:

Q Investigator Wayland, what, if any, part did you play in investigating the robbery which occurred in Fauquier County in Warrenton?

A I did not interview the subject as far as anything to do with that.

Q Were you investigating that particular incident?

A No, sir, I wasn't.

Q Was that within your responsibility?

A No, it was not.

Q The first time that you went out to the car, did you open the trunk?

A I don't remember, sir.

Q Did you open the passenger compartment?

A I think we went into the front of the vehicle. We may have looked in the glove compartment.

Q And then what did you do after that, after you looked in the front of the vehicle?

A It seems like to me that we took something and went back to the office.

Q What did you do with the vehicle after you took the items?

A The vehicle stayed right there. It was locked

1 back up again.

2 Q Locked up? All right. And there came a time
3 that you again returned to the vehicle?

4 A Yes, sir.

5 Q What was your purpose for returning?

6 A To complete my inventory.

7 Q Who was responsible for that vehicle?

8 A At that particular time?

9 Q Yes, sir.

10 A The Sheriff of Culpeper County was responsible for
11 it.

12 MR. BROWNELLE: Your Honor, at this time, I would
13 like to have this item marked as Commonwealth's Exhibit
14 No. 3.

15 THE COURT: All right, that will be No. 3.

16 (The item referred to was marked as
17 Commonwealth's Exhibit No. 3 for
18 identification.)

19 BY MR. BROWNELLE:

20 Q I show you what has been marked as Commonwealth
21 Exhibit No. 3 for identification. Can you identify that?

22 A Can I look under here?

23 MR. BROWNELLE: If Your Honor please, I am taking

1 the label off that the clerk has put on here.

2 THE WITNESS: Yes, sir, I can.

3 BY MR. BROWNELLE:

4 Q How can you identify it, sir?

5 A My initials and the date are on it.

6 Q And how, if at all, does this camera relate to
7 the Defendant in this case?

8 A It was taken out of his vehicle.

9 Q Do you know where it was taken out of the vehicle?

10 A Yes, sir. It was taken out of the trunk.

11 Q Did there come a time that you gave this to anybody
12 else?

13 A Yes, sir. I gave it to Detective Riddel.

14 Q But you are certain it was taken out of the trunk?

15 A Yes, sir.

16 MR. BROWNELLE: I would ask that this be received,
17 Your Honor.

18 THE COURT: Any objection?

19 MR. WILLIAMS: No objection.

20 THE COURT: Exhibit No. 3 is admitted.

21 (The item heretofore marked as

22 Commonwealth's Exhibit No. 3 for iden-
23 tification was received in evidence.)

1 BY MR. BROWNELLE:

2 Q Were there any other type cameras of that sort,
3 any other cameras of that type, in the vehicle?

4 A To my knowledge, there was not, sir, without
5 going item by item through the inventory sheet.

6 MR. BROWNELLE: Your Honor, I don't believe I have
7 any other questions.

8 THE COURT: All right, sir. Any other questions?

9 MR. WILLIAMS: No, Your Honor.

10 THE COURT: Do you want him subject to recall?

11 MR. BROWNELLE: Yes.

12 THE COURT: You are subject to recall. Any other
13 witnesses you want to call?

14 MR. BROWNELLE: No, sir.

15 THE COURT: Any witnesses you want to call?

16 MR. WILLIAMS: No, sir.

17 THE COURT: Argument?

18 MR. WILLIAMS: Yes, Your Honor. First let me
19 direct my attention or direct the Court's attention to the
20 search in this case.

21 There are two theories that are appropriate in
22 this instance, and that are set out in the Opperman case
23 that I cited to the Court. First of all, whether or not

.....ARMED ROBBERY.....

REF ARMED ROBBERY AND B AND L OF HOTEL THAT OCCURRED AT APPROX
0535 HRS ON 7-22-78

3 UNKNOWN NEGRO MALES DROVE AND ENTERED JOHNSON MOTEL ON U.S. RT 21
SOUTH OF WARRENTON AND ROBBED AT GUNPOINT 4 MOTEL ROOM OCCUPANTS
SUSPECTS POSSIBLY TRAVELLING IN A 1968 T-BIRD BLUE IN COLOR NID

DESCRIPTIONS OF SUSPECTS AS FOLLOWS.....

SUBJ NUM 1 N/M TALL APPROX 6 FT, SLIM IN MIDDLE 20 S
ARMED WITH A MEAT CLAVOR NFD

SUBJ NUM 2 N/M APPROX 5 FT 11 IN, HEAVY SET, IN MIDDLE 20 S
ARMED WITH A SMALL CALIBER HAND GUN POSSIBLY A
22 CAL WITH WHITE HANDLES NFD

SUBJ NUM 3 N/M APPROX 4 FT 2 IN TALL APPEARED TO BE IN EARLY
TEENS POSSIBLY 13 NFD

1 VICTIM WAS BOUND AND GAGGED AND ANOTHE WAS PISTOL WHIPPED

ANY DEPARTMENT WITH SIMILAR CASES OR ANY INFORMATION ON THE ABOVE
PLEASE NOTIFY THIS DEPARTMENT A...S...A...P 703-347-3300

SENDER//// SGT JAMES L KADDELL UNIT 9

AUTH FOUR SO SHERIFF/LUTHER COX METTINGER/COMM-SEC 1054 HRS

PLF-DET-EX # 2
DATE 3/13/79
JUDGE JAY
CASE # 28567

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PLF-950, 1-71 Issue, Serial Number - F2Y8TW16-001W.

These items are coming out of the trunk of the vehicle:

1. One AM/FM tape deck and radio, Weltron, model .0001, no serial number, the antenna is broken.
2. One AM/FM car radio, Delco, serial numb. 1061754 , \$139.99.
3. One Polaroid Land Camera, Procto Model, w/case, no serial number.
4. One pair of converse tennis shoes, high top, brand new.
5. One can of Right Guard Deodorant.
6. One over-night-bag, Tap Airline of Portugal containing an ace bandage, shirt, and a pair of shorts.
7. One Wilson tennis racket, Model T3000, new condition.
8. One Franklin tennis racket, used.
9. One tennis racket, name not listed.
10. One Wilson tennis racket, Model T2000.
11. One pair of yellow Uniroyal boots.
12. One package (6 to pkg) of athletic tube socks.
13. One light blue hard hat.
14. One 8-track, FM, stereo tape player and radio, Serial number - A120949, Audiovox.
15. One black over-night bag containing a large sum of pennies - amount not determined, and one green billfold containing silver dollars and misc. old coins.
16. One blue container that generally goes on the floor-board of a vehicle.

PLF-~~950~~-EX # 1
DATE 3/13/29
JUDGE SW
CASE # 285678

17. One pair of used tennis shoes, white and red.
18. Two Kodac Instamatic Camera's plus carrying case.
19. One yellow hard hat.
20. One pair of black boots.
21. One pair of small work shoes.
22. One bag containing two towels.
23. One Kodac Instamatic Camera, model EK2, Serial number not known.
24. One brown bag containing two diapers and children's clothing.
25. One can of Peak Anti-Freeze.
26. One pillow.
27. One pair of new roller skates, Snyder's Super Deluxe, size 11.
28. One grey tool box with misc. tools, hammer, combs, tapes, lighter fluid, etc.
29. One pair of Converse tennis shoes, used.
30. One white towel.
31. One shirt with the number "32" on the back.
32. One pair of undershorts.
33. One undershirt.
34. One belt.
35. One comb and brush.
36. One blue Pan-Am bag containing a towel.
37. One CB antenna.

Continuation of items in trunk:

38. One bag of 15 8-track tapes and one cassette tape.
39. One pkg. of 6 handkerchiefs.
40. Numerous bags of potato chips, which will not be taken.
41. One pair of Humpayer tennis shoes, white and black, used condition, one has hole in sole.
42. One spark plug wire.
43. One 8-track tape which will be left in vehicle.
44. Two stuffed giraffes which will be left in vehicle.
45. One set of dice, which will be left in vehicle.
46. One phillips screw driver, to be kept.
47. One hair brush, to be left in vehicle.
48. One blanket, gold and blue, bedspread type.

Items found in front seat of vehicle:

1. One Mid-land CB radio, serial number A1082787 complete with microphone and wiring. This was under the dash on the driver's side.
2. Misc. receipts in the console glove compartment.
 - a. Gray's Automotive Repair Service, 1630 14th St. NW, Washington, D.C., 202-797-8800.
 - b. Travel Permission Slip from Dept. of Corrections, Supervisor, Wash., D.C. to Richard Reese, 33 K St., NW.

Misc. receipts will be left in vehicle except for court orders and they will be kept by Trp. Williams.

- * 3. One leather pouch.
4. One silver dollar necklace, (silver dollar dated 1884).

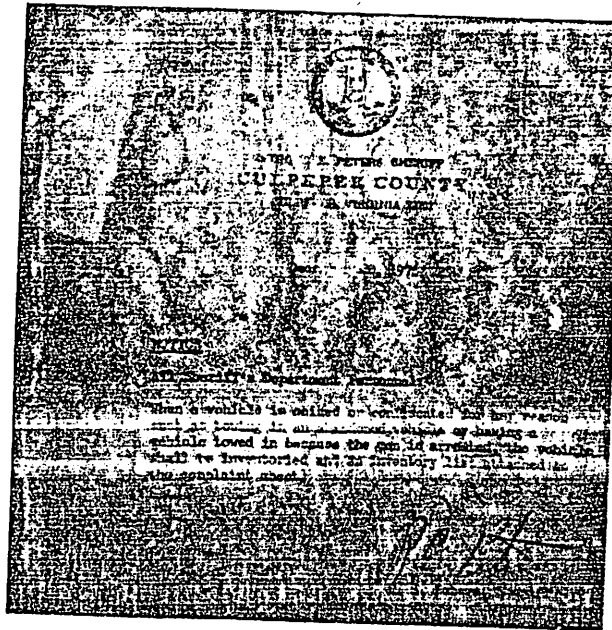
* The leather pouch contains change coming out of front of console - something like a hidden compartment. This change will be counted later. It also contains a ring which may have diamonds.

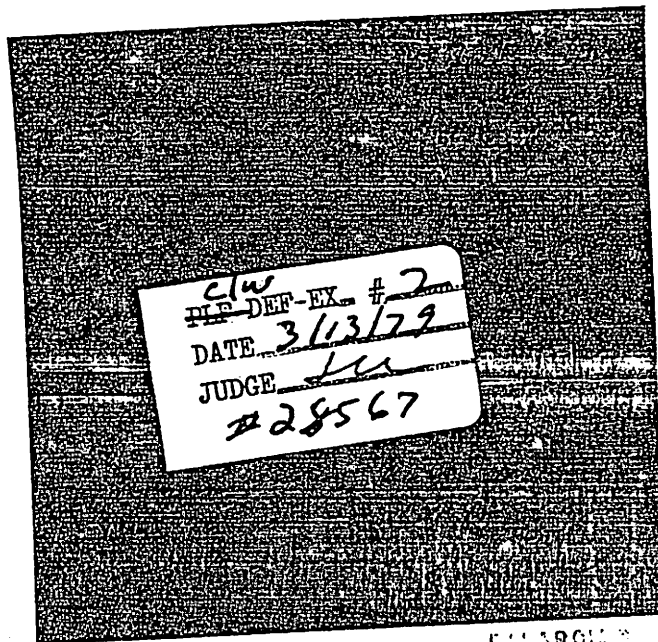
Continuation of items found in front seat:

5. One pair of driving gloves.
6. Misc. rags, towels, and cups.
7. One crescent wrench laying on passenger's side, this will be taken.
8. One empty jewelry box containing cotton.
9. One kitchen knife.
10. One yellow and black screwdriver.
- *11. Mileage on vehicle is 93,499.
12. Five flashlight batteries.
13. One small clock, Carima.
14. 23 cents in change and 3 13 cent stamps which will be left in glove compartment.
15. One light canvas bag.
16. Misc. change, amount not known.
17. Misc. pictures.
18. One Bulava watch, gold with leather strap.
19. One stick pin with either diamonds or fake diamonds.
20. One Loudoun Co. Sticker - Num. 12837.
21. One gray ladies stocking.
22. One hand cutter used to open boxes containing a razor blade.
23. One bottle of Shield Chemical Riot Control.
24. One gold chain with possible horse shoe.
25. One birthday card.

The back seat was raised and misc. change, lipstick, and other items were found and left in the vehicle.

Interior was conducted by Inv. W. H. Warland and E. H. Will of the Va. State Police. All items are being removed from vehicle unless stated differently. The vehicle is also equipped with a trunk mount CB antenna.





CLW
DEF-EX # 2
DATE 3/13/79
JUDGE L...
#28567

0708793461

FILARCH

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1 Opperman and Tavener, I mean there are no standards. I
2 mean the fact that you post a little memorandum upon the
3 bulletin board that all vehicles searched, is not
4 setting standards that have been required by the Court in
5 Opperman and Tavener.

6 to the confession, I don't think I need to
7 say anymore. Court has heard the evidence.

8 THE COURT: All right. First as to the search of
9 the automobile, Court denies the motion on the grounds that
10 I think that it was an inventory search. I have read
11 the Opperman case versus South Dakota, in addition to
12 the Virginia case of Schaum vs. Commonwealth, 215 Va. 498,
13 which says as follows: The police likewise had probable
14 cause to conduct a warrantless search of the vehicle,
15 either at the place where it was stopped or shortly there-
16 after at the police station since it was probable cause to
17 believe that the car had been used in the commission of a
18 burglary and contained the fruits of the crime, and citing
19 Chambers vs. Maroney. In the Opperman case, the case of
20 Cablier vs. Commonwealth is also cited with this, which
21 is found in 212 Va. In the case of Cady vs. Dombrowski,
22 the Court upheld the warrantless search of a trunk. So
23 that goes to the trunk. Going to the confession, I

1 think there is some distinction between this and the
2 Bunting case. In Bunting there is a lot of evidence of
3 offering the Defendant help for his problem, that he would
4 not get any time in the penitentiary -- it was a rape
5 case -- and what have you, so I think considering this, I
6 think there is sufficient evidence for the Jury to decide the
7 voluntariness of the confession. I am going to deny your
8 motion on the confession.

9 Ready for the Jury, gentlemen?

10 MR. BROWNELLE: Yes.

11 THE COURT: Your exceptions are noted.

12 MR. WILLIAMS: Thank you.

13 THE COURT: All right. If your client is ready
14 to be arraigned, I will have him arraigned now.

15 MR. WILLIAMS: All right.

16 THE COURT: Do you have any amendments to them?

17 MR. BROWNELLE: No, Your Honor.

18 THE COURT: All right.

19 THE CLERK: You are Richard Carter Reese?

20 THE DEFENDANT: Yes, sir.

21 THE CLERK: You have been charged with the
22 following: Count I: The Grand Jurors of the Commonwealth
23 of Virginia, in and for the body of the County of Fairfax

COMMONWEALTH OF VIRGINIA

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA

vs.

RICHARD CARTER REESE

) Indictment - 2 Counts Robbery;
2 Counts Abduction; 2 Counts
) Use of firearm in commission of
a felony.
) #28567

This 13th day of March, 1979, came the Commonwealth, by her Attorney, and the Defendant, RICHARD CARTER REESE, who stands indicted for felonies, to-wit: two counts of robbery; two counts abduction; and two counts of use of a firearm in commission of a felony, being confined in jail, was brought into Court and put to the bar of the Court, in the custody of a Deputy Sheriff, also appeared Edwin A. Williams, Counsel for the Defendant.

Thereupon, the Court Reporter was sworn.

Whereupon, the Attorney for the Defendant made a motion to suppress physical evidence and a motion to suppress the Defendant's statements, which motions, the Court, upon hearing evidence on behalf of the Defendant and on behalf of the Commonwealth, and argument of Counsel, denied.

Whereupon, the Defendant was arraigned upon Count I, II, III, IV, V, and VI, of the indictment returned herein, to which indictment the Defendant entered a plea of not guilty.

Thereupon, came a jury of twenty veniremen, who were sworn and examined on their voir dire and found to be competent and qualified jurors, and the Attorney for the Commonwealth and the Attorney for the Defendant having each alternately, beginning with the Attorney for the Commonwealth, stricken

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from the said panel the names of four of the said veniremen, the remaining twelve, to-wit: Joyce Pisarkiewicz, Robert Patton, Louis McCuller, Betty Woerlein, Robert Bonner, Nancy Goetz, Buel Lanpher, Alida Raabe, Joan Marrs, Ann Ruff, Victor Muller, and Loretta Zirkle, constituted the jury for the trial of the Defendant and were sworn the truth of and upon the premises to speak, and who heard opening statements of Counsel.

Thereupon, the jury heard all the evidence presented on behalf of the Commonwealth, and upon conclusion of the evidence presented, Counsel for the Defendant, out of the presence of the jury, but in the presence of the Defendant, renewed the previous motions to suppress, which motions the Court denied.

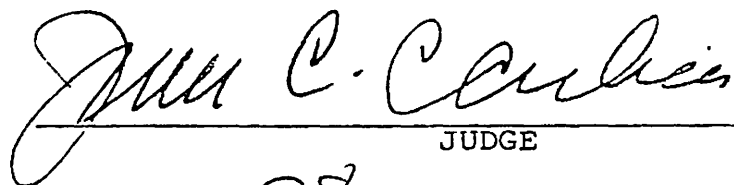
Whereupon, Counsel for the Defendant made a motion to strike Counts III and VI of the indictment, which motion the Court denied.

Whereupon, Counsel for the Defendant made a motion to strike Counts I, II, IV, and V of the indictment, which motion the Court denied.

Whereupon, the jury was recalled and the Attorney for the Defendant informed the Court they would present no evidence.

The jury then received instructions of the Court and the Court being of the opinion that this case could not be completed at a reasonable hour admonished the jurors as to their behavior during recess and continued this case to Wednesday, March 14, 1979, at 10:00 A.M.

The Defendant is hereby remanded to jail.


JUDGE

1 officer while he was other than in the County of Fairfax.

2 At the time of the interview, they discussed with
3 him this particular robbery, and he did admit to his par-
4 ticipation in it. Investigator Riddel, Investigator Reed,
5 will be here to testify as to what transpired at the time
6 they interviewed the Defendant.

7 I just ask you to pay close attention to the
8 testimony of the witnesses. This is a criminal case. There
9 are certain elements that we have to prove in each offense,
10 and some of them seem very technical, but -- some of the
11 questions may seem very technical, and, obviously, it's
12 necessary to ask these questions in order to prove the
13 events.

14 I would also ask, as His Honor has pointed out,
15 to not consider what I say, what I have said just now, and
16 what Mr. Williams is about to say as evidence in the case.

17 The only evidence that you are to consider in the
18 case is what you hear from the witnesses who testify on the
19 stand and any evidence that is introduced through these
20 witnesses, and this is true also of closing argument.

21 I thank you very much for your attention.

22 THE COURT: Mr. Williams.

23 MR. WILLIAMS: Ladies and gentlemen of the jury,

43
1 or about the 17th day of July, 1978, did you become in-
2 volved in an investigation of an alleged robbery at the
3 Chilla-Villa Motel?

4 A Yes, I did.

5 Q When exactly did you get involved in this?

6 A On the 18th, or 17th, actually.

7 Q Did there come a time when on or about the 23rd of
8 July that you had occasion to speak to the Defendant in this
9 case?

10 A Yes, I did.

11 Q Where was that?

12 A That was in the Fauquier County Jail in Warrenton,
13 Virginia.

14 Q At the time you spoke with him, were you alone or
15 with someone else?

16 A No. There was another investigator with me,
17 Investigator Reed of Fairfax City.

18 Q Is Investigator Reed here today?

19 A Yes, he is.

20 Q Prior to speaking to the Defendant, what, if any,
21 rights did you give him, sir?

22 A I advised him of certain rights on the Standard
23 Waiver Form. That's the procedure of our Department.

24

1 Q Did you read the rights to him?

2 A Yes, I did.

3 Q Did you allow him to read the rights?

4 A Yes, I did.

5 MR. WILLIAMS: Objection, Your Honor. He is
6 leading. He can ask him what he did.

7 THE COURT: All right, sir.

8 MR. BROWNELLE: Your Honor, I would ask that this
9 be marked as Exhibit 3.

10 (The item referred to was
11 marked Commonwealth's Exhibit No. 3
12 for identification.)

13 BY MR. BROWNELLE:

14 Q I would like to show you what we have referred to
15 as Commonwealth's Exhibit No. 3 for identification at this
16 point. Can you identify that document?

17 A Yes, sir.

18 Q How does that document relate to this case, if
19 it does?

20 A This is a Rights Form that we use in our Depart-
21 ment, that I had in my possession on July 23rd, '78, in the
22 Fauquier County Jail.

23 Q Can you speak up a little, Investigator.

25

1 A I read the form of certain rights to the
2 Defendant. He stated that he understood each right that he
3 read, each certain right, and then he signed the Waiver
4 Form. I witnessed it and Investigator Reed witnessed it.

5 Q Was Investigator Reed there at the time you inter-
6 viewed the Defendant?

7 A Yes, he was.

8 Q Could you read the rights, please, that you read
9 him at that time?

10 A Yes, sir.

11 Number one --

12 "You have the right to remain silent.

13 "You are not required to say anything to anyone
14 at anytime, or to answer any questions.

15 "Anything you do say can and will be used against
16 you in a Court of law.

17 "You have the right to talk to an attorney before
18 being questioned and also have the right to have an attorney
19 with you while being questioned.

20 "If you cannot afford an attorney and want one, one will
21 be provided for you.

22 "If you want to answer questions now without a
23 lawyer present, you still have the right to stop answering

1 questions at anytime.

2 "You also have the right to stop answering
3 questions at anytime if you want to talk to an attorney."

4 Q Did he appear to understand the rights?

5 A Yes, sir.

6 MR. WILLIAMS: Objection, Your Honor.

7 THE COURT: Overruled.

8 BY MR. BROWNELLE:

9 Q Did he appear to be under the influence of any
10 kind of intoxicants at that time?

11 A No, sir.

12 Q Drugs or alcohol?

13 A No, sir.

14 Q During the time that you were interviewing him,
15 what, if any, opinion did you draw with regard to whether or
16 not he could speak, read, or write and understand the
17 English language?

18 A Yes, sir, he read these certain rights that I had
19 read and stated that he had a tenth grade education.

20 Q He had a what?

21 A He stated he had a tenth grade education and he
22 understood each one of these rights.

23 Q Did you make any promises to him?

27

1 A No, sir, I did not.

2 Q Did you threaten him in any way?

3 A No, sir.

4 Q Did there come a time that he chose to speak to
5 you?

6 A Yes, he did.

7 Q What, if anything, did he say with regard to the
8 robbery of the Chilla-Villa Motel?

9 A The Defendant stated to me that on the 17th day of
10 July past, that approximately at 3:00 a.m., that he and
11 three other individuals --

12 Q Did he name the other individuals?

13 A Yes, sir.

14 Q Who are they?

15 A Vincent Tyrone Coates.

16 Q Vincent Tyrone Coates?

17 A Yes, sir, a subject he referred to as "Head."

18 Q Did he give you any other names besides "Head"?

19 A No. He did not know this individual's full name.
20 And another individual that he referred to as "Tootie" Hill.

21 Q "Tootie" Hill?

22 A Yes, sir. He stated they were driving around the
23 Fairfax County, Fairfax City, area, that he was familiar with

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1 the area due to the fact that he had a girlfriend in Reston,
2 Virginia, Fairfax County, and they went past the motel,
3 the Chilla-Villa Motel --

4 MR. BROWNELLE: Excuse me. Can everybody hear the witness?

5 (Negative responses.)

6 THE WITNESS: They went to the motel. He was
7 familiar with the area, the Chilla-Villa Motel, which is
8 located on Lee Jackson Memorial Highway, just west of Fair-
9 fax City.

10 They parked their vehicle in front of the motel.
11 They had a red and black Plymouth which belonged to subject
12 Vincent Coates' uncle.

13 He further stated that the individual that he re-
14 ferred to as "Head" went to the door. He was unmasked, rang
15 the bell, and was to ask for a room. And, that prior to
16 this, it was all in their agreement to rob the motel, to
17 take money and whatever was inside.

18 And once the individual who came to the door
19 answered the door, when the subject he referred to as
20 "Head" rang the doorbell, the other individuals came inside
21 the motel.

22 And Mr. Reese stated to me that he had a fake
23 handgun.

29

1 BY MR. BROWNELLE:

2 Q A fake handgun?

3 A Right.

4 And he received approximately \$40 of money and
5 some other items: cameras, stereo, and a tape player,
6 et cetera; that once inside, he searched the room. And when
7 they were ready to leave, that subject Vincent Coates was
8 out in the lobby area with the occupants of the motel.
9 They then ordered them in the closet, which is used as a
10 laundry room, and shut the door and locked the door from
11 the outside, told them to stay there for approximately 10
12 or 15 minutes and not to call the police.

13 They then left the motel, got on Route 66, went
14 back into Washington, D.C.

15 Q Washington, D.C. Is that where he said they
16 came from?

17 A Yes.

18 Q Do you see the individual in the courtroom from
19 whom you took his statement?

20 A Yes, he is sitting to the left of counsel.

21 ~~At the time you took the statement, what, if any-~~
22 ~~thing, recording devices did you have?~~

23 A ~~We had no recording device. I took personal~~

1 Q That's sort of an all points lookout, isn't it?

2 A And I had checked with numerous people, informed
3 sources, that I called to see if I could obtain information
4 from any individuals that might have heard of this robbery,
5 and I had informed other investigators in my Department.

6 Q But you hadn't looked for any of the patrons of
7 the motel that night, had you? Had you gone to the motel
8 and checked the book of who was registered that night at the
9 time of the robbery? Had you called all those people to
10 find out whether or not they had seen anything?

11 A No, I didn't. There was a man that had reported
12 the -- had made a call into the Police Department, but he
13 was not there when I went to interview the witnesses.

14 Q So you go down there, get the Defendant in
15 this little room, that doesn't have any windows in
16 it, and you and Detective Rred, Investigator Reed,
17 start examining him; is that right, interrogating
18 him?

19 A We interviewed him, yes, sir.

20 Q When you first talked to him about the robbery, or
21 this robbery, he denied he knew anything about it, didn't he?

22 A He did not deny it. No, sir. No.

23 Q What?

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1 hearing of the jury as follows:)

2 DIRECT EXAMINATION

3 BY MR. BROWNELLE:

4 Q State your name, please.

5 A Vincent Tyrone Coates.

6 Q Where are you staying right now, Mr. Coates?

7 A Fairfax County; down at the Detention Center.

8 Q Is that here in Fairfax County?

9 A Yes, sir.

10 Q And I direct your attention to on or about the
11 17th of July, 1978. Did there come a time, that you had
12 occasion to be in the County of Fairfax?

13 A Yes, sir.

14 Q And do you recall who you were with at that time?

15 A Mr. Carter Reese, and "Head," and "Tootie."

16 Q Where did you go in the County on that day?

17 A Went to the Chilla-Villa Motel.

18 Q Is that located in the County of Fairfax?

19 A Yes, sir.

20 Q What was your purpose for going there, sir?

21 A First of all, the purpose was to go -- because Mr.
22 Reese told us to go there.

23 Q To the motel?

1 A Yes, sir.

2 Q Did you know what was going to happen?

3 A No, sir; not at that time.

4 Q Where were you at the time he told you to go
5 there?

6 A We was really out there, you know. We was in
7 Fairfax County and he told us to go there.

8 Q Did there come a time that you went into the
9 motel?

10 A Yes, sir.

11 Q What was your purpose for going in there?

12 A Well, I heard a girl scream, and I go in there
13 later on, about five minutes later, something like that.

14 Q Who was in there with you at the time?

15 A Mr. Reese.

16 Q What was he doing, if anything?

17 A He was standing by the counter.

18 Q The counter? Where was that?

19 A That's in the front lobby.

20 Q Was anybody inside, besides the people that you
21 came into the motel with?

22 A I think they put people in the closet at the
23 time.

1 Q Did you ever see those people?

2 A No, sir.

3 Q You never saw them?

4 A No, sir.

5 Q Were there any guns involved?

6 A Yes, sir.

7 Q Can you describe the type of guns that were
8 involved?

9 A I think it was a 25 automatic.

10 Q Anything else besides that?

11 A A rifle.

12 Q A rifle?

13 A Yes, sir.

14 Q Do you know what, if anything, was taken from the
15 motel?

16 A Stereos, cameras, watches, and I think some
17 jewelry; I'm not sure.

18 Q Do you know if any cameras were taken?

19 A Yes, probably two or one, three, something like that.

20 Q With regard to this particular offense, did there
21 come a time that you entered a plea of guilty?

22 A Yes, sir.

23 Q To two robberies?

1 A Yes, sir.

2 MR. WILLIAMS: Objection, Your Honor. Is he
3 impeaching his own witness? I don't understand why the Com-
4 monwealth would be asking the witness whether he would plead
5 guilty unless he is impeaching his own witness.

6 THE COURT: Overrule your objection. Exception
7 noted.

8 BY MR. BROWNELLE:

9 Q Did there come a time that you pled guilty to
10 two robberies involved in this matter?

11 A Yes, sir.

12 Q Have you been sentenced?

13 A Yes, sir.

14 Q Are you now serving the sentence?

15 A Yes, sir.

16 Q What, if any, agreements were there between you
17 and the Commonwealth with regard to your testimony?

18 A Well, there were no agreements at all. Just a
19 plea bargain and some of my charges was not processed.

20 Q So in return of your plea of guilty, some of
21 your charges were nolle prossed?

22 A Yes, sir.

23 Q With regard to the individual that you referred to

1 as Carter Reese, do you see him in the courtroom?

2 A Yes, I do.

3 Q Would you point to him, please?

4 A (Indicating.)

5 Q Sitting at the end of counsel's table?

6 A Yes, sir.

7 MR. BROWNELLE: Let the record reflect the witness
8 has identified the Defendant.

9 That's all I would have at this time.

10 CROSS-EXAMINATION

11 BY MR. WILLIAMS:

12 Q Those guns that were taken into that motel -- they
13 did not work, did they?

14 A No, sir.

15 Q One of them was just a starter pistol, wasn't it,
16 a blank pistol?

17 A I don't know.

18 Q Pardon?

19 A As far as I know, it was real.

20 Q Did you ever hear them fire?

21 A No, sir.

22 Q Did you ever see anybody use one of them, actually
23 fire either, any of them?

1 Your Honor, I have one other matter. There
2 was evidence in this case that certain items were taken,
3 apparently were taken, at the time of the robbery. In
4 the motion to suppress, one item at least was admissible,
5 was found to be admissible, yet it was not introduced into
6 evidence.

7 Now, I intend to argue, and I would like to have
8 an instruction of evidence being missing. In other
9 words, it is like a missing witness instruction, that the
10 Government had evidence available to them that could have
11 been introduced.

12 MR. BROWNELLE: If Your Honor please, with
13 regard to the piece of evidence, the reason why it's not
14 been entered into evidence is because there's no way --
15 I don't have a witness who can really say for sure, beyond
16 a reasonable doubt, that that's the same camera.

17 The mother owned the camera in this case.
18 Apparently, as I understand it, the daughter bought the
19 camera for the mother for a Christmas present. She
20 did not use it very much.

21 The daughters that used it could not say
22 beyond a reasonable doubt that that's the same camera,
23 because there's no markings on it, or anything else that

1 makes it unique to them. They would not be able to identify
2 it and that's the reason why I did not want to get
3 involved in that type of a problem during the trial.

4 THE COURT: Mr. Williams?

5 MR. WILLIAMS: Well, I maintain that it is
6 appropriate under the missing witness sort of an instruc-
7 tion, and also, there is a witness missing here. I
8 recognize that the mother -- they try to explain away that
9 she is sick, but that doesn't reach the criterion for
10 claiming a missing witness. I think the witness has to
11 be out of the jurisdiction or unavailable to the
12 Government or Commonwealth in some way.

13 And the mere fact that she is sick doesn't
14 overcome their obligation to do so.

15 MR. BROWNELLE: I don't believe it is a missing
16 witness instruction.

17 THE COURT: Larson vs. Daniel, concerning a
18 material witness. But I think the fact that she's ill
19 makes her unavailable, and at this point, if she is ill,
20 that is unimpeached at this time, so --

21 MR. WILLIAMS: Well, Your Honor, may I argue
22 that, even though the Court doesn't give the instructions,
23 may I argue the failure of certain evidence to be produced?

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1 Move around the room, relax a little bit?

2 A No, sir.

3 Q You did tell him at one point early in the inter-
4 view that if he cooperated with you, that you would call it
5 to the attention of the Commonwealth Attorney and the Judge,
6 didn't you?

7 A Yes, sir, I did.

8 Q And it was after that that he began telling you
9 these facts; is that right?

10 A It was during this time that he was telling us
11 the facts.

12 MR. WILLIAMS: No further questions.

13 MR. BROWNELLE: What was the last answer,
14 Detective Reed?

15 THE WITNESS: It was during the course of this
16 interview that we were talking, that he was relating these
17 facts.

18 REDIRECT EXAMINATION

19 BY MR. BROWNELLE:

20 Q So he had already started relating to you his
21 participation in that robbery, hadn't he?

22 A He already related to Investigator Riddel the fact
23 that they did his case.

1 Q So he had already said we did your case?

2 A Yes, sir.

3 Q And then he started telling you about the
4 robbery and you told him that you would bring it to
5 the attention of the Commonwealth Attorney and the
6 Judge?

7 A The exact sequence, I reiterate, we could not
8 promise him anything, but that if he cooperated with us,
9 we would bring it to the attention of the Commonwealth
10 Attorney and also the Court.

11 Q So you made no promises to him?

12 A No, sir.

13 Q To get him to make a statement?

14 A No, sir.

15 Q You did not threaten him, did you?

16 A No, sir.

17 Q Did he ever ask you for an attorney at any time
18 while you were interviewing him?

19 A No, sir.

20 Q Isn't it true that you told him he had the right to
21 have an attorney present at the time of the interview?

22 A Yes, sir.

23 Q Did he ever ask to have anybody else present?

1 A No, sir.

2 Q Any family member or friend?

3 A No, sir.

4 Q You say he initially denied having anything to do
5 with the robbery; is that correct?

6 A Yes, sir.

7 Q How long after you had arrived, or what did you
8 say to precipitate that answer from him? What caused him to
9 say that?

10 A That is the sequence that I don't recall at what
11 point, that particular time right there.

12 Q Do you know what was said prior to that, just
13 prior to that, by you or Investigator Riddel?

14 A That is one sequence right in there I don't re-
15 call. I wasn't taking my notes at that time.

16 Q Did you take notes of his statement to you about
17 his participation?

18 A Yes, sir.

19 Q And did you have any type of recording device
20 with you at the time?

21 A No, sir, I did not.

22 Q What did he say with regard to his participation?

23 A He stated that they just rode up to the motel and

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1 everybody in the car said they needed money.

2 Q Okay, what did he say they were going to do?

3 A That they went into the motel.

4 Q Is this from your notes now?

5 A Yes, sir.

6 Q What happened; how did they get into the motel;
7 did he say?

8 A I don't believe he indicated which individual went
9 up to the door.

10 Q Who was the principal investigator in this
11 particular case?

12 A In the Chilla-Villa case, it was Investigator
13 Riddel.

14 Q You were just accompanying him on the case?

15 A Yes, sir.

16 THE COURT: Any questions?

17 MR. WILLIAMS: Approach the Bench, Your Honor?

18 (Whereupon, the following was had at the Bench,
19 outside the hearing of the jury:)

20 MR. WILLIAMS: Your Honor, this last question, in
21 answering, implied that there were more than one case
22 against this man. He said, he asked the investigator, you
23 know, who was the principal investigator, and he said

COMMONWEALTH'S CLOSING ARGUMENT

1 was for being there, if there is any doubt in your mind
2 what their purposes were, or desired purpose for going there,
3 and that was simply to rob these people.

4 There came a time according to Wanda that they
5 were taken to a little room, the three of them were placed
6 in a room, and they were told to stay in there for at least
7 20 minutes and not to call the police. This was presumably
8 done so that the assailants could make their get-away.

9 Wanda testified that she saw two guns. She saw
10 what looked like a rifle and she saw what looked like a
11 pistol, and according to her testimony, the individuals
12 who were wielding these weapons indicated to them that
13 they were real and she believed them to be real, and I
14 don't believe that there's any evidence, any credible
15 evidence, to the contrary. So that is the crime.

16 The next problem is to prove who did it. I
17 think we have done this through the testimony mainly of
18 Investigator Riddel, Detective Reed, and Vincent Coates,
19 an accomplice in this case. I suspect that Mr. Williams
20 is going to argue to you that the confession that was
21 gained in this case was done so in an improper manner,
22 and I submit to you that it was not.

23 I think Investigator Riddel was candid with you

COMMONWEALTH'S CLOSING ARGUMENT

1 as was Detective Reed. They both interviewed the
2 Defendant on, I believe it was the 23rd day of July,
3 some four days -- I'm sorry -- six days after this robbery
4 took place, and at that time they informed the Defendant
5 of his Constitutional rights as they are required to do
6 under a long line of case law.

7 As a matter of fact, Detective Riddel did present
8 this document to the Defendant, and as he testified, he
9 read these rights to the Defendant, the Defendant appeared
10 to understand them. He let the Defendant read the rights,
11 and he indicated that the Defendant was able to read and
12 write, and did understand the rights. And he indicated
13 that he had told him that he did have the right to remain
14 silent; that he did not have to say anything to those
15 police officers; that he could have an attorney present;
16 if he desired one and if he could not afford one, one would
17 be appointed for him.

18 At that time, I asked Riddel and I asked Reed
19 a number of times, did the Defendant ask for an attorney,
20 did he ask for anybody, and the answers were no. The
21 Defendant signed this on the bottom, which is a consent
22 to speak. It was witnessed by Reed and it was executed
23 by Riddel and witnessed by Detective Reed.

COMMONWEALTH'S CLOSING ARGUMENT

1 I don't think there is any doubt that the
2 Defendant was voluntarily making the statement at that time.
3 He was well aware of his rights, and he chose to waive
4 his rights and give a statement. When he did give a
5 statement to these police officers, who by the way, were
6 not -- but then I also asked if they had any type of
7 recording devices or any type of stenographic resources,
8 at that time they indicated they did not, but they did
9 take notes and there's nothing wrong with that, with them
10 taking notes of what an individual says and relating that
11 back. They are trained to do this.

12 They indicated that the Defendnat did in fact
13 participate in the robbery of the Chilla Villa Motel and
14 the individuals who were living there. He indicated that
15 he did so with there other individuals -- an individual
16 who all we know his name is as "Head", an individual by
17 the name of "Tootie" Hill, who is Reginald Hill, and
18 Vincent Tyrone Coates.

19 He indicated that they had agreed, they needed
20 the money, and they were in that area. Mr. Reese did
21 know the area because he had a girlfriend somewhere
22 who lived somewhere in the area, and they agreed to rob
23 this motel.

COMMONWEALTH'S CLOSING ARGUMENT

1 I submit to you that there were no promises
2 made to him at the time and no threats made to him. There
3 was a comment made by Detective Reed, and I think he was
4 candid also, that if the Defendant was cooperative, that
5 he would bring it to the attention of the Commonwealth
6 Attorney and the Judge. He said he made no promises,
7 however, as to what would be done in this particular case,
8 and I submit to you that that statement by itself is not
9 enough to render his statement to the police involuntary.

10 There is nothing in there that says he is going
11 to receive a lighter sentence or that some of the cases
12 will be dropped against him or anything else. There
13 were no promises made with regard to the charges that
14 they sought to bring against him.

15 There was some testimony that Mr. Williams
16 did bring out from the investigator that the room they
17 were in was rather small and confined. I don't think
18 there is anything inherently improper about that. I
19 don't know. They went to a set of facilities which were
20 not our own, and I think Reed or Riddel, one of the two,
21 testified that he believed it to be the room where the
22 attorneys interview their clients, and apparently that was
23 the only facility that was available to them. I don't

1 think that of itself was going to make this man confess
2 to something as outrageous as the crimes that we are
3 charging him with.

4 I don't believe that the statement Reed made to
5 him, that he would bring it to the attention of the
6 Commonwealth Attorney and the Judge, the fact that if he
7 would cooperate, was enough to make him confess to some-
8 thing as outrageous as the crime he is charged with.

9 There is an instruction which tells you that --
10 it says if you believe from the evidence that a con-
11 fession was made by the Defendant but that any such con-
12 fession was obtained by threats, duress, and undue
13 influence, or that it was made under the influence of
14 hope or fear held out by the officer -- that was not
15 really involved -- you may take into consideration any
16 such circumstances in determining what weight or credibility,
17 if any, should be given to such confession. That is not
18 telling you to ignore that confession; it is saying to
19 you if the police acted in a manner -- I believe that the
20 instruction is saying that if the police officer acted in
21 a manner so as to make this man say something that was
22 not true, that you should treat that as it would be the
23 testimony of any other witness and it should be discredited.

1 But I submit to you, they did not do that; that whatever
2 was said to this man was not enough to make him confess to
3 a robbery.

4 On the abduction and the firearm charge he is
5 facing now, we have the testimony of Tyrone Coates who was
6 a co-Defendant in this case, was a co-conspirator, and I
7 believe Mr. Williams will certainly try to discredit his
8 testimony. I think there is probably some meat there for
9 him to attack, but I submit to the Jury that he has pled
10 guilty by his own testimony, and that is uncontroverted --
11 pled guilty to four counts of robbery. For each count
12 of robbery he could have faced life imprisonment.

13 There was no agreement made, no agreement by
14 his own testimony, no other evidence of any agreement
15 between the Commonwealth and him that we would do anything
16 or made any promises to him to make it lighter on him if
17 he did testify against Mr. Reese.

18 As a matter of fact, at the time Mr. Coates
19 testified yesterday, he was free, in effect, free, from
20 any possible bargain that could have been made, and I
21 submit that there was no bargain, because he had already
22 been sentenced. He was under no obligation at that point
23 to make any testimony. He could just sit there in the jail

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA) Indictment - 2 Counts Robbery;
	2 Counts Abduction; 2 Counts
vs.) Use of a firearm in commission
	of a felony.
RICHARD CARTER REESE) #28567

This 14th day of March, 1979, came the Commonwealth, by her Attorney, and the Defendant, RICHARD CARTER REESE, who stands indicted for felonies, to-wit: two counts of robbery; two counts abduction; and two counts of use of a firearm in commission of a felony, being confined in jail, was brought into Court and put to the bar of the Court, in the custody of a Deputy Sheriff, also appeared Edwin A. Williams, Counsel for the Defendant.

Thereupon, the Court Reporter was sworn.

Thereupon, the roll was called and the following jurors took their seats in the jury box, to-wit: Joyce Pisarkiewicz, Robert Patton, Louis McCuller, Betty Woerlien, Robert Bonner, Nancy Goetz, Buel Lanpher, Alida Raabe, Joan Marrs, Ann Ruff, Victor Muller, and Loretta Zirkle.

The jury then heard argument of Counsel and rebuttal argument on behalf of the Commonwealth and were sent to their room to consult upon their verdict, and after some time returned into Court and rendered the following verdicts, to-wit:

"We, the Jury, on the issue joined in the case of Commonwealth of Virginia vs. Richard Carter Reese find the Defendant guilty of robbing Wanda Coffey as charged in the indictment and fix his punishment at 8 years.

/s/ Alida Patricia Raabe
Foreperson"

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18, the Jury, on the issue joined in the case
of Commonwealth of Virginia vs. Richard Carter Reese
find the Defendant guilty of robbing Mary Coffey as
charged in the indictment and fix his punishment at
8 years.

/s/ Alida Patricia Raabe
Foreperson"

"We, the Jury, on the issue joined in the case
of Commonwealth of Virginia vs. Richard Carter Reese
find the Defendant guilty of abducting Wanda Coffey
as charged in the indictment and fix his punishment
at 5 years.

/s/ Alida Patricia Raabe
Foreperson"

"We, the Jury, on the issue joined in the case
of Commonwealth of Virginia vs. Richard Carter Reese
find the Defendant guilty of abducting Mary Coffey
as charged in the indictment and fix his punishment
at 5 years.

/s/ Alida Patricia Raabe
Foreperson"

"We, the Jury, on the issue joined in the case
of Commonwealth of Virginia vs. Richard Carter Reese
find the Defendant guilty of displaying a firearm
while committing the robbery on Wanda Coffey as
charged in the indictment and fix his punishment
at 3 years.

/s/ Alida Patricia Raabe
Foreperson"

"We, the Jury, on the issue joined in the case of Commonwealth of Virginia vs. Richard Carter Reese find the Defendant guilty of displaying a firearm while committing the robbery on Mary Coffey as charged in the indictment and fix his punishment at 3 years.

/s/ Alida Patricia Raabe
Foreperson"

Thereupon, the jury was discharged.

Then Counsel for the Defendant made a motion that this case be referred to the District Probation Officer for his investigation and report before sentencing, which motion the Court granted, and this case is hereby continued to the 23rd day of April, 1979, for said report and sentencing.

The Defendant is hereby remanded to jail.



JUDGE

SENTENCING

1 MR. REESE: No, sir.

2 THE COURT: I'm sorry, sir, I can't hear you.

3 MR. REESE: No, sir.

4 THE COURT: The Court, on count one, the robbery
5 of Mary Coffee, the Court will impose a sentence of eight
6 years in the State Penitentiary.

7 On count two, abduction of Mary Coffee, the
8 Court will impose five years in the State Penitentiary,
9 three years suspended.

10 On count three, the display of a firearm, the
11 Court impose three years in the State Penitentiary.

12 On count four, robbery of Wanda Coffee, Court
13 will impose eight years in the State Penitentiary.

14 On count five, which is an abduction of Wanda
15 Coffee, five years, three years suspended.

16 On count six, use of a firearm, the Court will
17 impose three years in the State Penitentiary; and will run
18 those sentences consecutively and not concurrent.

19 And, the Court will advise you that you have the
20 right to appeal this case 30 days from today's date.

21 And, if you want, I will appoint Mr. Williams
22 to perfect your appeal and to raise all the proper motions and t
23 represent you at the trial level, and will award you the

1 transcript.

2 I will remand you to the custody of the Sheriff.

3 MR. WILLIAMS: Your Honor, may I ask one question?

4 You said that those sentences would run consecutive. Are
5 they run consecutive to each other,' as well as the sentence
6 that's already imposed?

7 THE COURT: Yes, sir.

8 MR. WILLIAMS: So, as I understand it, there's
9 16 years consecutive to what he's already --

10 THE COURT: Basically, I think that's what that
11 is, yes, sir. I reduced the one sentence in the abduction.
12 I don't consider that as serious as the others, and I'll
13 order the transcript for you.

14 The Court appreciates your acting as Court
15 appointed counsel, and I'll award you maximum fees.

16 MR. WILLIAMS: Thank you.

17 (Whereupon, at 2:07 o'clock p.m., the hearing
18 in the above case was concluded.)

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V I R G I N I A :

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA

vs.

RICHARD CARTER REESE

) Indictment - 2 Counts of Abduction
2 Counts of Robbery and 2 Counts
) of Use of a firearm in commission
of a felony.
) #28567

This 15th day of June, 1979, came the Commonwealth, by her Attorney, and the Defendant, RICHARD CARTER REESE, who stands convicted of felonies, to-wit: two counts of abduction, two counts of robbery, and two counts of use of a firearm in commission of a felony, being confined in jail, was brought into Court and put to the bar of the Court, in the custody of a Deputy Sheriff, also appeared Edwin A. Williams, Counsel for the Defendant.

Thereupon, the Court Reporter was sworn.

Whereupon, the Probation Officer of this Court, to whom this case had been previously referred for investigation, appeared in open Court with a written report, copies of which had previously been furnished to Counsel for the Defendant, Attorney for the Commonwealth, and the Court. Counsel for the Defendant then advised the Court that he had discussed the report with the Defendant and the Defendant was fully advised of the contents thereof.

Thereupon, the accused and his Counsel were given the right to cross-examine the Probation Officer as to any matter contained in said report, and to present any additional facts bearing upon the matter as he desired to present. The report

of the Probation Officer is hereby filed and made a part of the record of this case.

Thereupon, it was demanded of him, RICHARD CARTER REESE, if anything he knew or had to say why the Court should not proceed to pass sentence and judgment upon him, and nothing being offered or alleged in delay of judgment, it is ADJUDGED and ORDERED the Defendant serve eight (8) years in the Penitentiary House of this Commonwealth, at hard labor, for Count I (Robbery) of the indictment returned herein. The Defendant is to serve five (5) years in the Penitentiary House of this Commonwealth, at hard labor, for Count II (Abduction), but in mitigation of punishment, it appearing compatible with the public interest so to do, the Court doth now suspend three (3) years of the said sentence conditioned upon the Defendant's good behavior. The Defendant is to serve three (3) years in the Penitentiary House of this Commonwealth, at hard labor, for Count III (Use of a firearm in commission of a felony). On Count IV (Robbery), the Defendant is to serve eight (8) years in the Penitentiary House of this Commonwealth, at hard labor. On Count V (Abduction) the Defendant is to serve five (5) years in the Penitentiary House of this Commonwealth, at hard labor, but in mitigation of punishment, it appearing compatible with the public interest so to do, the Court doth now suspend three (3) years of the said sentence conditioned upon the Defendant's good behavior. On Count VI (Use of a firearm in commission of a felony), the Defendant is to serve three (3) years in the Penitentiary House of this Commonwealth, at hard labor. The said sentences are to run consecutively

with each other and consecutively with any other sentences the Defendant is presently serving.

The Court proceeded to advise the Defendant of his right to appeal from the sentence heretofore imposed, including the right to have an attorney appointed for him and to have the attorney's fees, costs and expenses in connection with an appeal paid for him in the event he is financially unable to pay the same.

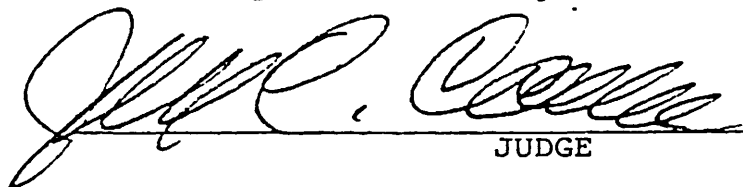
In the event the Defendant desires to note an appeal in this case, the Court appoints EDWIN A. WILLIAMS, Attorney, to assist the Defendant for said appeal.

The Court certifies that the Defendant was present at all stages of this trial.

The fee of the Court Reporter who recorded the evidence and incidents of trial in this case is hereby assessed as costs in this case as provided in Sec. 19.2-165 of the 1950 Code of Virginia, as amended.

Edwin A. Williams, Attorney, who was heretofore appointed to represent the Defendant in this case, is hereby allowed a fee of \$ 400.00.

The Defendant is hereby remanded to jail.


JUDGE

ASSIGNMENTS OF ERROR

The Trial Court erred:

1. In denying the Defendant's motion to suppress the evidence illegally seized from his automobile on July 22, 1978.
2. In denying the Defendant's motion to suppress the statements he made to the police after he was taken into custody on July 22, 1978.